

Public Document Pack

Executive Member Decisions

Friday, 11th February, 2022

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Date Published: 11th February 2022
Denise Park, Chief Executive

EXECUTIVE MEMBER DECISION



REPORT OF: Executive Member for Finance and Governance

LEAD OFFICERS: Director of Finance

DATE:

PORTFOLIO/S AFFECTED: ALL

WARD/S AFFECTED: All

SUBJECT: EMD - Corporate Risk Management Policy Statement

1. EXECUTIVE SUMMARY

To present the Risk Management Policy Statement and supporting Risk Management Strategy and Framework 2021-2026 to the Executive Member for Finance & Governance for approval.

Establishing an effective Risk Management Policy Statement is a key element of the Council's corporate planning process and the Corporate Governance Framework. An adequate and effective risk management system is an essential element of good management and a sound internal control framework. It is essential if the Council is to be able to demonstrate that it has sound systems of corporate governance in place.

The Policy and supporting Strategy and Framework will provide a consistent corporate approach to ensure that robust and effective risk management procedures are embedded into the Council's culture so that risk management is an integral part of the decision making process and the supporting systems and procedures used by Members, Chief Officers and staff at all levels. The Policy Statement and Risk Management Strategy and Framework set out the Council's approach for the systematic management of risk, the culture and roles and responsibilities of all managers and decision makers to achieve this.

2. RECOMMENDATIONS

That the Executive Member:

- Approves the Risk Management Policy Statement, including the corporate assessment of risk appetite, and supporting Risk Management Strategy and Framework.

3. BACKGROUND

Effective risk management systems and procedures are key to supporting the achievement of the Council's community outcomes and corporate plan priorities. Good risk management also assists the Council to effectively manage strategic and operational decision making, business planning and service delivery, to safeguard its assets and ensure the well-being of its stakeholders.

The Council does not have an overarching Risk Management Policy in place, which defines corporately what the Council's overall 'risk appetite' is. The current Risk Management Strategy and Framework and supporting Risk Management Toolkit have been in place since 2015. Whilst these documents are considered to generally sound they are in need of a review and refresh to ensure that they reflect current best practice and are simplified.

The Council's External Auditors, Grant Thornton, review the arrangements in place for value for money. As part of this they will consider the adequacy of the Council's Risk Management arrangements against various key lines of enquiry.

A review of the Council's Risk Management arrangements has taken place in response to the points noted above.

4. KEY ISSUES & RISKS

The Council is committed to high standards of corporate governance and has adopted a Code of Corporate Governance as part of its Constitution. The governance framework brings together an underlying set of legislative requirements, governance principles and management processes. The Council has recognised that taking informed and transparent decision that are subject to effective scrutiny and managing any risks identified is one of the core principles of good governance, as details in its Code of Corporate Governance.

A general discussion about the Council's risk management arrangements took place as part of the Corporate Leadership Team's (CLT) review of the strategic risk register at its meeting on 28 July 2021. As a result of this it was resolved that there should be a review and refresh of the Council's approach to, and arrangements in place for risk management.

A number of issues were identified from the review, including the following:

- there is no overarching Risk Management Policy for the Council, defining corporately what the Council's overall 'appetite' for risk is;
- the Risk Management Strategy and Framework, is over five years old. Whilst considered generally sound, it is in need of refresh and simplification;
- there is a perception that the CLT do not 'own' and/or 'champion' risk management; and
- other than being shared with the Audit and Governance Committee, little or no information on the Council's strategic risks is shared with the political leadership of the organisation.

Risk management is an integral part of good governance within an organisation. Good risk management is dependent to a large extent on the culture of the organisation. In essence, the Council could have award winning, 'best in breed' risk management policies, strategies and procedures but if it is set within a culture that does not consider risk management to be important, such policies, strategies and procedures would be largely redundant.

For that reason, it is important that the Corporate Assurance Board (CAB) have ownership of the Council's risk management policy, strategy and procedures and champion risk management in a proportionate way throughout the organisation. Setting the right tone is essential to ensuring that risks are identified, appropriate management actions are implemented by way of mitigation and this process becomes embedded in the culture of the organisation's performance management arrangements.

The Council does not currently have a Risk Management Policy Statement. The purpose of the Policy Statement is to set out the Council's intent with the management of risks. A key part of any Risk Management Policy is defining what the organisation's 'appetite' is for risk. To address this gap a draft Risk Management Policy has been produced and is provided at Appendix 1 for consideration and approval.

Included within the draft Policy Statement is an initial assessment of the Council's appetite for risk across a range of key risk categories. For the purposes of this report this assessment is provided separately for consideration at Appendix 2. The Executive Member for Finance and Governance is asked to consider whether the initial assessment of the Council's corporate risk appetite is considered appropriate for the areas identified given her knowledge of the Council.

The Council's current Risk Management Strategy and Framework (along with a supporting Risk Management Toolkit) was published in January 2016. The Strategy is generally sound, though lengthy, and, as identified by CLT, in need of a refresh. Consequently, it has been reviewed, along with the Risk Management Toolkit. The updated Strategy is provided at Appendix 3 and the Toolkit is included at Appendix 4 for reference.

The draft Risk Management Policy (including the assessment of risk appetite) and Strategy were both agreed by CLT at the CAB meeting on 15 December, subject to review and approval by the Executive Member for Finance and Governance.

The purpose of the Risk Management Policy Statement and supporting Risk Management Strategy and Framework is to set out the Council's approach for the systematic management of risk, the risk culture and expectations/responsibilities on all managers and decision makers to achieve this. These documents will provide a framework that should ensure there is a clear evidence based approach that is consistently applied across the Council, which embeds risk consideration into policy formulation, planning and decision making at all levels.

5. POLICY IMPLICATIONS

There are no policy implications arising directly from this report.

6. FINANCIAL IMPLICATIONS

The Risk Management Policy and supporting Strategy and Framework provide a means of demonstrating that all significant risks are being identified, reviewed and appropriately assessed. They also serve to help protect the Council's financial resources and assets and to ensure that they are directed to key priorities.

There are no additional costs directly linked to this Policy, or the Strategy & Framework.

7. LEGAL IMPLICATIONS

It is a requirement of the Accounts & Audit Regulations 2015 that the Council ensures that it has a sound system of internal control in place, which includes effective arrangements for the management of risk.

8. RESOURCE IMPLICATIONS

There are no additional resource implications arising from the implementation of this Policy or Strategy and Framework.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Corporate Assurance Board

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Colin Ferguson
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DATE:	
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BACKGROUND PAPER:	Corporate Risk Management Strategy and Framework 2015/20
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RISK MANAGEMENT POLICY STATEMENT

Blackburn with Darwen Borough Council recognises and accepts its responsibility to manage risks effectively in a structured way in order to achieve its corporate priorities and objectives and enhance the value of services and improve outcomes for the community.

The purpose of this policy and supporting risk management strategy and framework is to set out the Council's approach for the systematic management of risk, the culture, expectations/ responsibilities on all managers and decision makers to achieve this.

Through this policy and supporting strategy and framework, we aim to:

- Identify the scope of risk management;
- Embed and integrate risk management in the culture of the Council so that it is an integral part of the Council management systems and processes;
- Assign of roles, responsibilities and accountability for risk management activities within the Council;
- Raise awareness of the need for risk management by all those connected with the Council's delivery of services;
- Contribute to the prevention of injury, damage and losses to reduce the cost of risk;
- Ensure we identify and realise opportunities and their resulting benefits; and
- Ensure consistency throughout the Council in the management of risk.

These aims will be achieved with a clear and evidenced approach consistently applied across the organisation that embeds consideration of risk in policy formulation, planning and decision making at all levels by:

- Establishing and maintaining systems and processes to manage risk and contribute to good corporate governance through accurate, relevant and timely reporting on risk management
- Incorporating risk management considerations into all levels of business planning;
- Incorporating risk management considerations into all levels of programme, project and partnership arrangements;
- Skills training and development for all relevant managers, staff and Members in the effective management of risk; and
- Regular monitoring and reporting of risk to identify trends and likely direction of risks for Members and Senior Managers to be aware of when making decisions.

Risk management is often seen as being primarily concerned with the adverse potential of risk. However, not all risk is bad. Some opportunities can only be unlocked by taking risks. The key to success in these situations is to take risks knowingly and manage them appropriately.

Appetite for Risk

The Council provides a wide range of services. Therefore it is impossible to have a single 'risk appetite'. Our policy is to ensure a culture of knowledgeable risk taking. Our risk appetite helps us to determine what a material risk is. We consider our risk appetite for each risk and apply a 'target rating', which is realistic and achievable whilst being tolerable for that remaining risk.

The Council acknowledges that risk cannot be eliminated and may sometimes need to be embraced as part of an innovative approach to problem solving. It is the responsibility of the Corporate Leadership Team to ensure that risk management strategies and processes are implemented and brought to the attention of relevant staff in their Departments.

Establishing and articulating the risk appetite level helps to ensure that consideration in the way that management, Executive Board and Council respond to risk is consistent and that there is a shared vision for managing risk. There are risks for which the Council is custodian on behalf of the public and environment, where the risk appetite may be very low, and there may be risk with choices about

investment in projects or delivery roles, where a higher level of risk appetite may be encouraged and supported.

Risk appetite may vary depending on the importance and complexity of each objective that the Council is pursuing and the particular strategies in place to achieve those objectives. Our approach is to minimise exposure to compliance and reputational risk, whilst accepting and encouraging an increased degree of risk in other areas in pursuit of the Council's strategic objectives. As a general principle, the Council will seek to control all highly probable risks that have the potential to:

- threaten the organisation's compliance with law and regulation;
- cause significant harm to service users, staff, visitors and other stakeholders;
- severely compromise the reputation of the organisation;
- have financial consequences that could endanger the organisation's viability; or
- jeopardise significantly the organisation's ability to carry out its core purpose

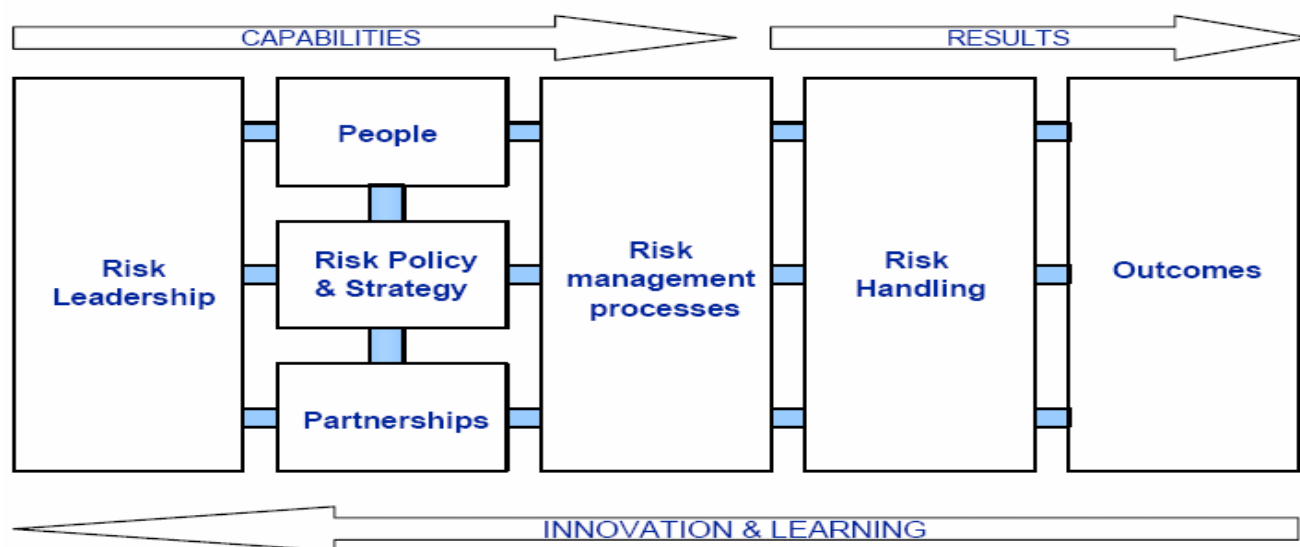
The table in Appendix 1 sets out definitions of risk appetite levels for key strategic risk categories. The 'risk assessment and risk matrix' section within the Risk Management Toolkit has further guidance.

The Leadership, Cabinet and Corporate Leadership Team view risk management as an integral part of good internal control and corporate governance and should form part of all decision making and policy making.

The way in which we manage our risks directly impacts the Council's success in achieving its objectives and in delivering services to the communities to which we are accountable. The Council is committed to adopting best practice in its management of risk to ensure retained risk is of an acceptable and tolerable level in order to maximise opportunities and demonstrate it has made full consideration of the implications of risk to the delivery and achievement of outcomes, strategic aims and priorities.

The scope of risk management is illustrated by the European Framework for Quality Management diagram below, which sets out the key components necessary to implementing this.

Figure 1: Risk Management Excellence Model: Adapted from European Framework for Quality Management



Risk Capabilities	Requirements
Risk Leadership	Senior management & elected members support the risk management agenda
People	People are equipped and supported to manage risk well
Risk Policy & Strategy	A clear risk policy and strategy is available
Partnerships	Effective arrangements are in place for managing partnership risk

Risk Management Processes	Processes incorporate effective risk management
Risk Results	Requirements
Risk Handling	Risks are handled in accordance with the Council's Risk Management Strategy & Framework
Outcomes	The extent to which risk management contributes to achieving outcomes is visible

Within the above context, the Council is committed to the management of risk in order to:

- Ensure that statutory obligations and policy objectives are met;
- Prioritise areas for improvement in service provision and encourage meeting or exceeding customer and stakeholder expectations;
- Safeguard our employees, clients or service users, Members, pupils, and all other stakeholders to whom the Council has a duty of care;
- Protect its property including buildings, equipment, vehicles, knowledge and all other assets and resources;
- Identify and manage potential liabilities;
- Maintain effective control of public funds and efficient deployment and use of resources achieving value for money;
- Preserve and promote the reputation of the Council;
- Support the quality of the environment; and
- Learn from previous threats, opportunities, successes and failures to inform future management of risks.

These aims will be addressed by systematically identifying, analysing and evaluating, cost effectively controlling and monitoring risks at strategic, directorate, programme, project, and operational levels. The process is both top down and bottom up and will involve staff at all levels. Every employee has a responsibility to support the Council's policy in managing risk.

This policy will be implemented through the operation of the Council's Risk Management Strategy & Framework.

Signed:
Leader
Chief Executive
Chair of Audit & Governance Committee

Date:
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.....
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Risk Appetite Definitions

The following table provides a definitions of risk appetites categories against key strategic risk categories. These are based on a selection of risk categories recommended in The Orange Book – Management of Risk, Principles and Concepts (2020) published by HM Government

Risk appetite level definition					
	Averse	Minimal	Cautious	Open	Eager
Strategy	Guiding principles or rules in place that limit risk in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 5+ year intervals	Guiding principles or rules in place that minimise risk in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 4-5 year intervals	Guiding principles or rules in place that allow considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 3-4 year intervals	Guiding principles or rules in place that are receptive to considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 2-3 year intervals	Guiding principles or rules in place that welcome considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 1-2 year intervals
Governance	Avoid actions with associated risk. No decisions are taken outside of processes and oversight / monitoring arrangements. Organisational controls minimise risk of fraud, with significant levels of resource focused on detection and prevention.	Willing to consider low risk actions which support delivery of priorities and objectives. Processes, and oversight / monitoring arrangements enable limited risk taking. Organisational controls maximise fraud prevention, detection and deterrence through robust controls and sanctions.	Willing to consider actions where benefits outweigh risks. Processes, and oversight / monitoring arrangements enable cautious risk taking. Controls enable fraud prevention, detection and deterrence by maintaining appropriate controls and sanctions.	Receptive to taking difficult decisions when benefits outweigh risks. Processes, and oversight / monitoring arrangements enable considered risk taking. Levels of fraud controls are varied to reflect scale of risks with costs.	Ready to take difficult decisions when benefits outweigh risks. Processes, and oversight / monitoring arrangements support informed risk taking. Levels of fraud controls are varied to reflect scale of risk with costs.

	Averse	Minimal	Cautious	Open	Eager
Reputation	Zero appetite for any decisions with high chance of repercussion for organisations' reputation.	Appetite for risk taking limited to those events where there is no chance of any significant repercussion for the organisation.	Appetite for risk taking limited to those events where there is little chance of any significant repercussion for the organisation.	Appetite to take decisions with potential to expose organisation to additional scrutiny, but only where appropriate steps are taken to minimise exposure.	Appetite to take decisions which are likely to bring additional Governmental / organisational scrutiny only where potential benefits outweigh risks.
Operational	Defensive approach to operational delivery - aim to maintain/protect, rather than create or innovate. Priority for close management controls and oversight with limited devolved authority.	Innovations largely avoided unless essential. Decision making authority held by senior management.	Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Management through leading indicators.	Innovation supported, with clear demonstration of benefit / improvement in management control. Responsibility for non- critical decisions may be devolved.	Innovation pursued – desire to 'break the mould' and challenge current working practices. High levels of devolved authority – management by trust / lagging indicators rather than close control.
Legal	Play safe and avoid anything, which could be challenged, even unsuccessfully.	Want to be very sure we would win any challenge.	Want to be reasonably sure we would win any challenge.	Challenge will be problematic; we are likely to win, and the gain will outweigh the adverse impact.	Chances of losing are high but exceptional benefits could be realised.
Property	Obligation to comply with strict policies for purchase, rental, disposal, construction, and	Recommendation to follow strict policies for purchase, rental, disposal, construction,	Requirement to adopt arrange of agreed solutions for purchase, rental, disposal,	Consider benefits of agreed solutions for purchase, rental, disposal, construction,	Application of dynamic solutions for purchase, rental, disposal, construction, and

	refurbishment that ensures producing good value for money.	and refurbishment that ensures producing good value for money.	construction, and refurbishment that ensures producing good value for money.	and refurbishment that meeting organisational requirements.	refurbishment that ensures meeting organisational requirements.
	Averse	Minimal	Cautious	Open	Eager
Financial	Avoidance of any financial impact or loss, is a key objective.	Only prepared to accept the possibility of very limited financial impact if essential to delivery.	Seek safe delivery options with little residual financial loss only if it could yield upside opportunities.	Prepared to invest for benefit and to minimise the possibility of financial loss by managing the risks to tolerable levels.	Prepared to invest for best possible benefit and accept possibility of financial loss (controls must be in place).
People	Priority to maintain close management control & oversight. Limited devolved authority. Limited flexibility in relation to working practices. Development investment in standard practices only	Decision making authority held by senior management. Development investment generally in standard practices.	Seek safe and standard people policy. Decision making authority generally held by senior management.	Prepared to invest in our people to create innovative mix of skills environment. Responsibility for noncritical decisions may be devolved.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust rather than close control.
Technology	General avoidance of systems / technology developments.	Only essential systems / technology developments to protect current operations.	Consideration given to adoption of established / mature systems and technology improvements. Agile principles are considered.	Systems / technology developments considered to enable improved delivery. Agile principles may be followed.	New technologies viewed as a key enabler of operational delivery. Agile principles are embraced.
Data & Info Management	Lock down data & information. Access tightly controlled, high levels of monitoring.	Minimise level of risk due to potential damage from disclosure.	Accept need for operational effectiveness with risk mitigated through careful management limiting distribution.	Accept need for operational effectiveness in distribution and information sharing.	Level of controls minimised with data and information openly shared.

	Averse	Minimal	Cautious	Open	Eager
<p>Security 12uncas Page 12uncas</p>	<p>No tolerance for security risks causing loss or damage to BwD property, assets, information or people. Stringent measures in place, including:</p> <ul style="list-style-type: none"> • Staff vetting maintained at highest appropriate level. • Controls limiting staff and visitor access to information, assets and estate. • Access to staff personal devices restricted in BwD sites 	<p>Risk of loss or damage to BwD property, assets, information or people minimised through stringent security measures, including:</p> <ul style="list-style-type: none"> • All staff vetted levels defined by role requirements. • Controls limiting staff and visitor access to information, assets and estate. • Staff personal devices permitted, but may not be used for official tasks. 	<p>Limited security risks accepted to support business need, with appropriate checks and balances in place:</p> <ul style="list-style-type: none"> • Vetting levels may flex within teams, as required • Controls managing staff and limiting visitor access to information, assets and estate. • Staff personal devices may be used for limited official tasks with appropriate permissions. 	<p>Considered security risk accepted to support business need, with appropriate checks and balances in place:</p> <ul style="list-style-type: none"> • New starters may commence employment at risk, following partial completion of vetting processes • Controls limiting visitor access to information, assets and estate. • Staff personal devices may be used for official tasks with appropriate permissions. 	<p>Organisational willing to accept security risk to support business need, with appropriate checks and balances in place:</p> <ul style="list-style-type: none"> • New starters may commence employment at risk, following partial completion of vetting processes • Controls limiting visitor access to information, assets and estate. • Staff personal devices permitted for official tasks

	Averse	Minimal	Cautious	Open	Eager
Programme/Project	Defensive approach to transformational activity - aim to maintain/protect, rather than create or innovate. Priority for close management controls and oversight with limited devolved authority. Benefits led plans fully aligned with strategic priorities, functional standards.	Innovations avoided unless essential. Decision making authority held by senior management. Benefits led plans aligned with strategic priorities, functional standards.	Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Plans aligned with strategic priorities, functional standards.	Innovation supported, with demonstration of commensurate improvements in management control. Responsibility for noncritical decisions may be devolved. Plans aligned with functional standards and organisational governance.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust rather than close control. Plans aligned with organisational governance.
Commercial	Zero appetite for untested commercial agreements. Priority for close management controls and oversight with limited devolved authority.	Appetite for risk taking limited to low scale procurement activity. Decision making authority held by senior management.	Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Management through leading indicators.	Innovation supported, with demonstration of benefit / improvement in service delivery. Responsibility for non-critical decisions may be devolved.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust / lagging indicators rather than close control.

Corporate risk appetite assessment (Green indicates assessed risk appetite)

Risk appetite level definition					
	Averse	Minimal	Cautious	Open	Eager
Strategy	Guiding principles or rules in place that limit risk in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 5+ year intervals	Guiding principles or rules in place that minimise risk in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 4-5 year intervals	Guiding principles or rules in place that allow considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 3-4 year intervals	Guiding principles or rules in place that are receptive to considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 2-3 year intervals	Guiding principles or rules in place that welcome considered risk taking in organisational actions and the pursuit of priorities. Organisational strategy is refreshed at 1-2 year intervals
Governance	Avoid actions with associated risk. No decisions are taken outside of processes and oversight / monitoring arrangements. Organisational controls minimise risk of fraud, with significant levels of resource focused on detection and prevention.	Willing to consider low risk actions which support delivery of priorities and objectives. Processes, and oversight / monitoring arrangements enable limited risk taking. Organisational controls maximise fraud prevention, detection and deterrence through robust controls and sanctions.	Willing to consider actions where benefits outweigh risks. Processes, and oversight / monitoring arrangements enable cautious risk taking. Controls enable fraud prevention, detection and deterrence by maintaining appropriate controls and sanctions.	Receptive to taking difficult decisions when benefits outweigh risks. Processes, and oversight / monitoring arrangements enable considered risk taking. Levels of fraud controls are varied to reflect scale of risks with costs.	Ready to take difficult decisions when benefits outweigh risks. Processes, and oversight / monitoring arrangements support informed risk taking. Levels of fraud controls are varied to reflect scale of risk with costs.
Reputation	Zero appetite for any decisions with high chance of repercussion for organisations' reputation.	Appetite for risk taking limited to those events where there is no chance of any significant repercussion for the organisation.	Appetite for risk taking limited to those events where there is little chance of any significant repercussion for the organisation.	Appetite to take decisions with potential to expose organisation to additional scrutiny, but only where appropriate steps are	Appetite to take decisions which are likely to bring additional Governmental / organisational scrutiny only where potential benefits outweigh risks.

Corporate risk appetite assessment (Green indicates assessed risk appetite)

				taken to minimise exposure.	
Operations	Defensive approach to operational delivery - aim to maintain/protect, rather than create or innovate. Priority for close management controls and oversight with limited devolved authority.	Innovations largely avoided unless essential. Decision making authority held by senior management.	Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Management through leading indicators.	Innovation supported, with clear demonstration of benefit / improvement in management control. Responsibility for non- critical decisions may be devolved.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust / lagging indicators rather than close control.
Legal	Play safe and avoid anything which could be challenged, even unsuccessfully.	Want to be very sure we would win any challenge.	Want to be reasonably sure we would win any challenge.	Challenge will be problematic; we are likely to win, and the gain will outweigh the adverse impact.	Chances of losing are high but exceptional benefits could be realised.
Property	Obligation to comply with strict policies for purchase, rental, disposal, construction, and refurbishment that ensures producing good value for money.	Recommendation to follow strict policies for purchase, rental, disposal, construction, and refurbishment that ensures producing good value for money.	Requirement to adopt agreed solutions for purchase, rental, disposal, construction, and refurbishment that ensures producing good value for money.	Consider benefits of agreed solutions for purchase, rental, disposal, construction, and refurbishment that meeting organisational requirements.	Application of dynamic solutions for purchase, rental, disposal, construction, and refurbishment that ensures meeting organisational requirements.
Financial	Avoidance of any financial impact or loss, is a key objective.	Only prepared to accept the possibility of very limited financial impact if essential to delivery.	Seek safe delivery options with little residual financial loss only if it could yield upside opportunities.	Prepared to invest for benefit and to minimise the possibility of financial loss by managing the	Prepared to invest for best possible benefit and accept possibility of financial loss (controls must be in place).

Corporate risk appetite assessment (Green indicates assessed risk appetite)

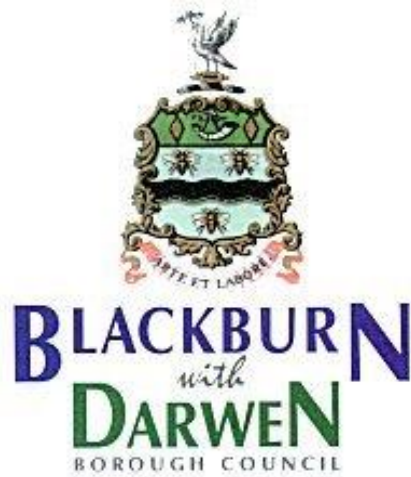
				risks to tolerable levels.	
People	Priority to maintain close management control & oversight. Limited devolved authority. Limited flexibility in relation to working practices. Development investment in standard practices only	Decision making authority held by senior management. Development investment generally in standard practices.	Seek safe and standard people policy. Decision making authority generally held by senior management.	Prepared to invest in our people to create innovative mix of skills environment. Responsibility for noncritical decisions may be devolved.	Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust rather than close control.
Technology	General avoidance of systems / technology developments.	Only essential systems / technology developments to protect current operations.	Consideration given to adoption of established / mature systems and technology improvements. Agile principles are considered.	Systems / technology developments considered to enable improved delivery. Agile principles may be followed.	New technologies viewed as a key enabler of operational delivery. Agile principles are embraced.
Data & Info Management	Lock down data & information. Access tightly controlled, high levels of monitoring.	Minimise level of risk due to potential damage from disclosure.	Accept need for operational effectiveness with risk mitigated through careful management limiting distribution.	Accept need for operational effectiveness in distribution and information sharing.	Level of controls minimised with data and information openly shared.
Security	No tolerance for security risks causing loss or damage to BwD property, assets, information or people. Stringent measures in place, including: <ul style="list-style-type: none"> • Staff vetting maintained 	Risk of loss or damage to BwD property, assets, information or people minimised through stringent security measures, including: <ul style="list-style-type: none"> • All staff vetted 	Limited security risks accepted to support business need, with appropriate checks and balances in place: <ul style="list-style-type: none"> • Vetting levels may flex within teams, as 	Considered security risk accepted to support business need, with appropriate checks and balances in place: <ul style="list-style-type: none"> • New starters may 	Organisational willing to accept security risk to support business need, with appropriate checks and balances in place: <ul style="list-style-type: none"> • New starters may commence employment at risk, following partial

Corporate risk appetite assessment (Green indicates assessed risk appetite)

	<p>at highest appropriate level.</p> <ul style="list-style-type: none"> • Controls limiting staff and visitor access to information, assets and estate. • Access to staff personal devices restricted in BwD sites 	<p>levels defined by role requirements.</p> <ul style="list-style-type: none"> • Controls limiting staff and visitor access to information, assets and estate. • Staff personal devices permitted, but may not be used for official tasks. 	<p>required</p> <ul style="list-style-type: none"> • Controls managing staff and limiting visitor access to information, assets and estate. • Staff personal devices may be used for limited official tasks with appropriate permissions. 	<p>commence employment at risk, following partial completion of vetting processes</p> <ul style="list-style-type: none"> • Controls limiting visitor access to information, assets and estate. • Staff personal devices may be used for official tasks with appropriate permissions. 	<p>completion of vetting processes</p> <ul style="list-style-type: none"> • Controls limiting visitor access to information, assets and estate. • Staff personal devices permitted for official tasks
<p>Programme/Project</p>	<p>Defensive approach to transformational activity - aim to maintain/protect, rather than create or innovate. Priority for close management controls and oversight with limited devolved authority. Benefits led plans fully aligned with strategic priorities, functional standards.</p>	<p>Innovations avoided unless essential. Decision making authority held by senior management. Benefits led plans aligned with strategic priorities, functional standards.</p>	<p>Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Plans aligned with strategic priorities, functional standards.</p>	<p>Innovation supported, with demonstration of commensurate improvements in management control. Responsibility for noncritical decisions may be devolved. Plans aligned with functional standards and organisational governance.</p>	<p>Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority – management by trust rather than close control. Plans aligned with organisational governance.</p>
<p>Commercial</p>	<p>Zero appetite for untested commercial agreements. Priority for close management controls and oversight with limited</p>	<p>Appetite for risk taking limited to low scale procurement activity. Decision making authority held by senior</p>	<p>Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally</p>	<p>Innovation supported, with demonstration of benefit / improvement in service delivery. Responsibility for</p>	<p>Innovation pursued – desire to ‘break the mould’ and challenge current working practices. High levels of devolved authority</p>

Corporate risk appetite assessment (Green indicates assessed risk appetite)

	devolved authority.	management.	held by senior management. Management through leading indicators.	non-critical decisions may be devolved.	– management by trust / lagging indicators rather than close control.
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Risk Management Strategy and Framework 2021-2026

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Introduction

Blackburn with Darwen Council has adopted the Institute of Risk Management's definition of a risk, '*A risk is something uncertain - it might happen or it might not. A risk matters because if it happens, it will have an impact on objectives*'.

Risk management is defined as coordinated activities to direct and control the Council with regards to risk. (ISO 31000:2018).

The purpose of this strategy is to explain our approach and outline the principles of risk management, identify the people responsible for it, and promote a culture of risk management throughout the Council. It provides a structured framework and process for embedding risk management across the organisation and defining staff roles and responsibilities. This document is aligned with the Council's Corporate Plan 2019-2023 and is one part of our risk management framework.

The Council recognises that risk management is not simply a compliance issue, but rather it is a way of viewing its operations with a significant impact on long-term viability and that effective risk management helps to demonstrate openness, integrity and accountability in all of the Council's activities.

In defining risk, the Council also recognises that risk can be the failure to take advantage of opportunities to optimise the achievement of its outcomes and priorities. The Council will therefore proactively consider positive risks (opportunities) as well as negative risks (threats).

Corporate governance is the system by which we direct and control our functions and account to and engage with the community and other stakeholders. A key aspect of corporate governance is the requirement to put into place "effective risk management systems, including sound systems of internal control". It is a key strand in the statutory Annual Governance Statement and is fundamental in supporting the Business Planning Process and the Management Accountability Framework (MAF).

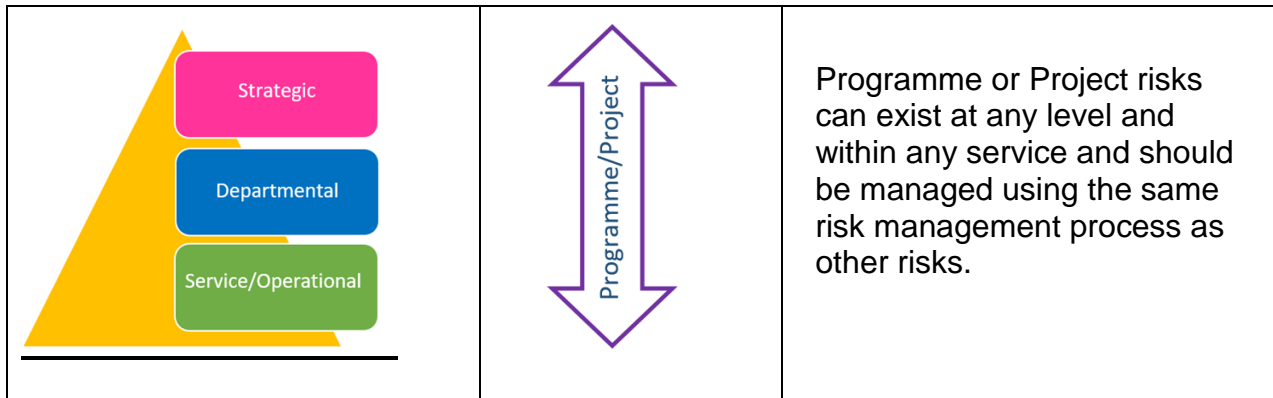
This document sets out the structured approach to risk management within the Council designed to support Members and officers in ensuring the Council is able to discharge its risk management responsibilities. It provides a consistent basis for the development and implementation of risk management arrangements.

Risk Management Alignment

Risk management should be an organisation wide embedded process integrated with the strategic planning arrangements. The process provides documented registers of risks the Council faces. These registers will include strategic and operational risks and will be considered from a strategic viewpoint and at a departmental level, including project risks. The risks identified will be aligned to our corporate plan priorities and objectives, and statutory duties. Departmental risks will be aligned to business plan objectives and include links to corporate priorities. These are:

- Supporting young people and raising aspirations;
- Safeguarding and supporting the most vulnerable people;
- Reducing health inequalities and improving outcomes;
- Connected communities;
- Safe and clean environment;
- Strong economy to enable social mobility;
- Supporting our town centres and businesses; and
- Transparent and effective organisation.

Risk Management Levels



Individual members of the Corporate Leadership Team are responsible for the Council's strategic risks and these are reviewed and updated regularly as part of the MAF process. Departmental level risks are owned by Strategic Directors, Directors or Heads of Service and are discussed and reviewed at Departmental (DMT) or Senior Leadership Team (SLT) meetings.

Most of our risks are service or operational level risks that are owned by an appropriate person, usually a manager, with specialist knowledge of the area. These are managed on a day to day basis as part of business as usual activity.

Risk Management Objectives

The Council's risk management objectives have been set to take into account of the internal and external strategic influences and the requirements detailed in this document.

The detailed objectives are set out in Appendix 1.

Risk Appetite

Risk appetite is defined as **'the amount and type of risk that an organisation is willing to take in order to meet its strategic objectives'** (Institute of Risk Management). Definitions of risk appetite levels for key strategic risk categories are set out in Appendix 1 of the corporate Risk Management Policy Statement.

The Council recognises that it must take risks in the order to achieve its objectives and deliver beneficial outcomes to its stakeholders and will take a 'risk sensible' approach. To achieve this it may accept an increased degree of risk in some cases. However, risks must be taken in a controlled manner, thus reducing the Council's exposure to a level deemed acceptable, from time to time, by the Members and by other stakeholders including auditors, regulators and inspectors.

Our approach is to minimise exposure to compliance and reputational risk, whilst accepting and encouraging an increased degree of risk in other areas in pursuit of the Council's strategic objectives. This approach is reflected in the Council's approach regarding the calculation and assessment of the residual and target risk scores as described in the Risk Analysis/Assessment section.

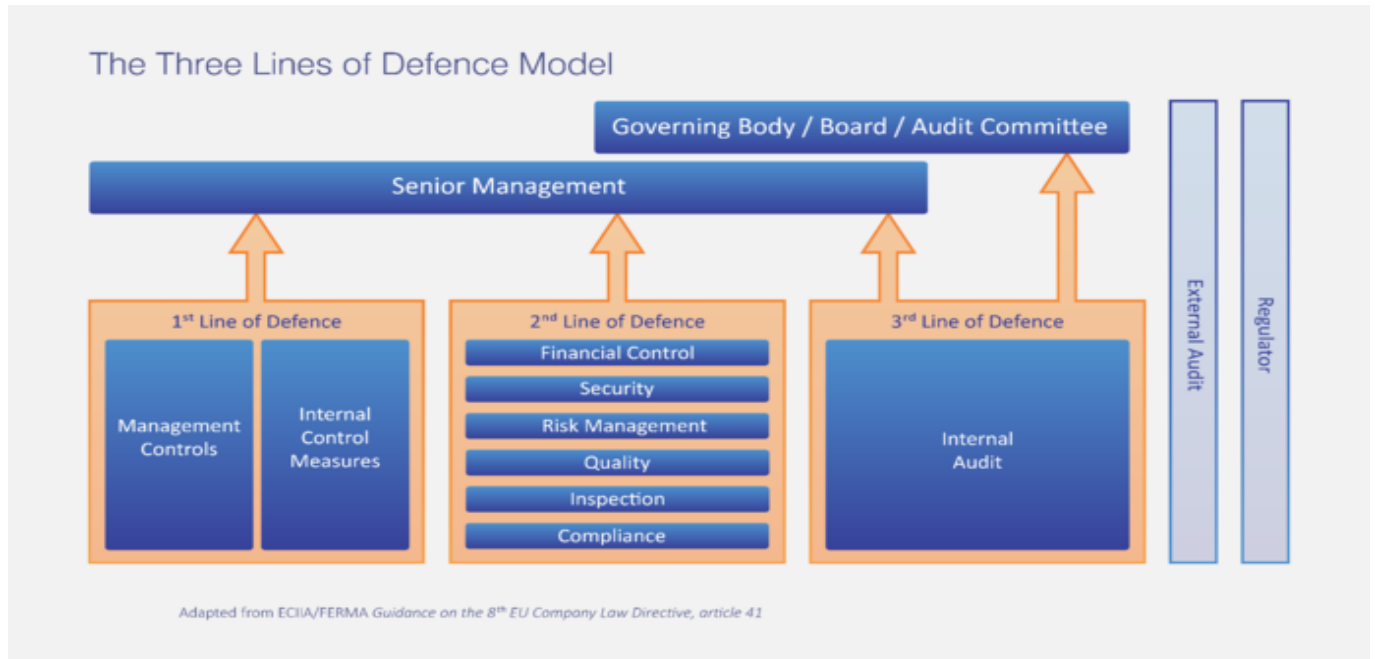
Risk appetite may vary depending on the importance and complexity of each objective that the Council is pursuing and the particular strategies in place to achieve those objectives. As a general principle, the Council will seek to control all highly probable risks that have the potential to:

- threaten the organisation's compliance with law and regulation;

- cause significant harm to service users, staff, visitors and other stakeholders;
- severely compromise the reputation of the organisation;
- have financial consequences that could endanger the organisation’s viability; or
- jeopardise significantly the organisation’s ability to carry out its core purpose.

Roles and Responsibilities

Everyone in an organisation has some responsibility for risk management. The “three lines of defence” model provides a simple and effective way to help delegate and coordinate risk management roles and responsibilities within and across the Council.



- **First Line of Defence** - management have responsibility and accountability for identifying, assessing and managing risks. The first line ‘own’ the risks, and are responsible for execution of the Council’s response to those risks through executing internal controls on a day-to-day basis and for implementing corrective actions to address deficiencies.
- **Second line of Defence** - consists of functions and activities that monitor and facilitate the implementation of effective risk management practices. They also facilitate the reporting of adequate risk related information up and down the organisation. The second line supports management by bringing expertise and monitoring alongside the first line to help ensure that risk are effectively managed.
- **Third Line of Defence** - the internal audit function will, through a risk-based approach to its work, provide an objective evaluation of how effectively the organisation assesses and manages its risks, including the design and operation of the “first and second lines of defence”.
- **External Assurance** - sitting outside of the Council’s own risk management framework and the three lines of defence are a range of other sources of assurance that support an organisation’s understanding and assessment of its management of risks and its operation of controls such as external audit, Ofsted and the CQC.

Key Risk Management Roles & Responsibilities

Political Leadership	<ul style="list-style-type: none">• Ensure consideration of risk in agreeing the Council's direction of travel.• Agree, and oversee the delivery of, a Risk Management Strategy.• Review the Strategic Risk register regularly.• Work with management teams to identify new or emerging risks.
Executive Members	<ul style="list-style-type: none">• Oversee risks relating to their portfolio.• Consider risk as an integral part of strategic planning and decision making.
Overview & Scrutiny Committees	<ul style="list-style-type: none">• Challenge decisions made by Executive Members where risks have not been considered properly.• Task & finish groups can request risk report information for areas in line with their portfolios.
Audit & Governance Committee	<ul style="list-style-type: none">• Consider the arrangements for corporate governance and risk management and advice on any action necessary to ensure compliance.• Understand the role and activities of the Corporate Leadership Team in relation to managing risk.• Approve and monitor a risk based audit programme.
Corporate Leadership Team	<ul style="list-style-type: none">• Set the tone from the top and promote the benefits of risk management.• Regularly discuss and review the Strategic Risk Register and associated reports• Work with management teams to identify new or emerging strategic risks• Ensure full compliance with all corporate governance requirements, including the production of the Annual Governance Statement
Director of Finance	<ul style="list-style-type: none">• Overall leadership for the effective delivery of the Council's risk management function including the Strategic Risk Register and Strategy in accordance with best practice.• Report progress with risk management to the Audit & Governance Committee.

Strategic
Directors and
Directors

- Ensure there are effective risk management arrangements in their departments in line with the Risk Management Policy and Strategy.
- Take ownership for risks within their departments and ensure risk registers, risk assessments including project and partnership registers, are regularly discussed, reviewed, updated and escalated as appropriate.
- Identify cross cutting risks which impact on the achievement of directorate objectives.
- Ensure Department risk registers and mitigating actions are regularly reported to the relevant Executive Member.
- Ensure key decision reports contain balanced and considered risk.
- Risk implications of all new business change proposals are satisfactorily taken into account.
- Where key services are to be provided through a partnership arrangement clear lines of risk ownership and accountability are established.

Department
Management
Teams

- Ensure that risk management within their area of responsibility is implemented in line with the Council's Risk Management Strategy and Framework
- Take ownership for the risks within their department, ensuring the risk register is regularly discussed, reviewed and updated and identifying analysing, prioritising and managing risk within the department as part of the business planning process.
- Ensure that all risks are aligned to corporate objectives.
- Escalate risks up to the strategic level when required.
- Ensure mitigating actions are carried out and controls are in place to

Audit &
Assurance

- Periodically assess the robustness of the Council's Risk Management Policy, Strategy and Framework and culture.
- Ensure the design and systematic implementation of policies, procedures and practices for risk identification, assessment, treatment, monitoring and reporting.
- Plan audit work to take into account key risks, and how effectively they are managed providing assurances for the Annual Governance Statement, the Strategic Risk Register and Audit & Governance Committee.
- Co-ordinate the preparation of the Annual Governance Statement on

All staff

- Manage risk as part of their role and report risks to their managers.
- Develop understanding and become familiar with the Risk Management Policy and supporting Strategy & Framework.
- Maintain awareness of risks, their impact, including costs, and feed these through the adopted risk management process including alerting management to:
 - Risks which are not effectively managed, or the level of current risk is unacceptably high (amber or above).
 - Issues that arise or near misses.

Risk Management Cycle

The risk management process is a continuous cycle. It involves identifying the risks, prioritising them, and implementing actions to mitigate the top risks as illustrated by linkages in the diagram below.



The methodology adopted by the Council is a structured, systematic methodology that identifies, evaluates, prioritises and manages risk at a corporate, strategic departmental and operational level.

The Risk management process adopted at the Council is broadly based on the International Standard in Risk Management - 'ISO 31000'.

The five-step process should take place regularly to identify new risks. The whole process along with the activities of communicating, consulting, embedding and reviewing should take place continuously to encourage the risk management process into the culture at the Council.

An especially relevant time for considering new risks is at the business planning phase, as risks should be identified which could impact on the ability to meet the objectives set out in the plan.

Additional risks may also be formally documented and assessed where appropriate, for example in respect of major projects and partnership arrangements. Guidance regarding the categories and examples of risks to consider is included in the Risk Management Toolkit

A consistent approach will be taken to assessing risks, examining for each risk identified a scenario involving a background, risk (problem) and consequence. Risk scenarios also illustrate the possible consequences of the risk if it occurs so that its full impact can be assessed.

Risk Monitoring

Risk management is an on-going process and requires regular review and monitoring. This process will examine:

- the implementation of agreed actions;
- the effectiveness of the controls that have been put in place;
- how the risk has changed over time.

Where changes have occurred the cycle will be revisited taking into account the changes and their impact on the service. The effectiveness of any control action will be judged on the basis of its success in either reducing the frequency and/or the severity of an incident.

Risk Records

The Council will maintain a strategic risk register, a community risk register (prepared by the Civil Contingencies Team to satisfy the requirements of the Civil Contingencies Act 2004) and a range of other registers for Departments, programmes, projects and partnerships where considered necessary. In addition, departments will maintain a business impact assessment for their services business continuity plans and ensure that the risk impact on critical services and functions is identified, assessed and appropriately recorded in relevant risk registers.

Risk Analysis/Assessment

For every decision or activity there is an associated risk that delivery will not take place.

We determine an inherent and a residual risk score by assessing the likelihood and potential impact of each strategic and departmental risk using the standard scoring matrix set out in the Risk Management Toolkit. The results will be recorded in the relevant risk register.

There are two components to the risk assessment: Likelihood and Impact. Example descriptors for assessing the likelihood and impact scores for risks and opportunities are set out in the Toolkit

The complete risk management assessment calculates inherent (or gross) risk and residual risk. These are calculated as follows:

Total risk score = Likelihood score x Impact score

For each scenario the two risk scores will be calculated and documented:

Gross/Inherent Risk

An assessment of the likelihood and impact of the risk scenario occurring if no controls were in place regarding the activity. This score serves as a baseline measurement of the severity of the specific **risk** facing the Council due to a particular threat.

Current/Residual Risk

To offset the inherent risk identified the Council applies controls to reduce it. Residual risk is the perception of the current situation. It is an assessment of the likelihood and impact of the risk identified today, with the current mitigating controls in place after evaluating the adequacy and effectiveness of the existing controls or measures identified. These controls **must already exist and be operating** to control or mitigate the risk identified. They **must not be planned or in progress**.

The difference between the inherent and residual scores represents the effect of the controls in place and demonstrates their value. It acts as evidence when considering if all the controls

identified are required. It may be identified where risks are over controlled and resources can be freed up.

A **Target Score** will then be calculated and recorded for each risk.

This is the level of risk that is aimed for when taking into account the risk actions that have been identified and the Council’s risk appetite in respect of the area/activity concerned. This should be realistic and recognise that it is difficult to be able to reduce both the likelihood and impact scores. If this is the same as the residual risk score no further action is required and the risk can be accepted. If the risk is not at an acceptable level further actions should be identified to reduce the risk to the target score.

Risk Matrix

A risk matrix is a key tool used to analyse the probability and impact of a risk. The Council uses a 5X5 risk matrix, with the score determined by multiplying the ‘probability’ score with the ‘impact’ score.

Scoring risks allows them to be compared with other risks and enables risk owners to prioritise and allocate more resources to those risks posing the greatest threat to the organisation’s objectives. Once completed the risk profile will clearly illustrate the priority of each risk scenario. The categories available are green (low risk, residual score 1-5), amber (medium risk, residual score 8-12) or red (high risk, residual score 15-25).

		IMPACT				
		Marginal/Negligible 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
LIKELIHOOD	Almost Certain 5	5	10	15	20	25
	Likely 4	4	8	12	16	20
	Possible 3	3	6	9	12	15
	Unlikely 2	2	4	6	8	10
	Very Unlikely 1	1	2	3	4	5

Each risk is then categorised as green (low risk, residual score 1-5), amber (medium risk, residual score 8-12) or red (high risk, residual score 15-25). A target risk score is also identified. This is the level of risk we are aiming for when any actions identified are completed.

Green risks sit within our level of risk tolerance, amber risks sit above our level of risk tolerance but remain within an acceptable level and red risks sit above our acceptable level.

If the residual risk score is considered too high actions are required to change the way we manage the likelihood or impact of the risk. There are four options:

- **Treat** – introduce additional suitable and proportionate controls or actions to reduce the likelihood or impact of the risk to an acceptable level, or establish a contingency to be enacted if the risk materialises;
- **Tolerate** – take an informed decision to accept the consequence and likelihood of the risk accepting the existing level of risk identified, subject to regular monitoring arrangements by management. Actions may not be able to be implemented due to disproportionate cost compared to the benefit obtained, or it is out of the Council’s control;
- **Terminate** – an informed decision to not become involved in a risk situation, stop the activity that gives rise to the risk or carry out the activity in a different way to ensure that controls can be implemented; or

- **Transfer** – Pass the risk to a third party who shares or bears the impact if the risk materialises, through contracts, insurance or other means.

The higher the value of residual risk score the higher the priority for action becomes. Risk values can be grouped to determine whether action is required and with what level of priority.

The potential for controlling or modifying the risks identified will be addressed and recorded on the risk register as actions to implement.

These risk registers should not be seen as a separate initiative but be incorporated into the corporate and service planning and decision making framework.

Risk Financing

This is an important element when considering the reduction of the Council’s total cost of risk. The financing may take a combination of one or more of the following:

- Payment of premiums to an external insurer.
- Acceptance of deductibles or excesses for individual risks or specific insurance policies.
- Creation of internal Reserves to handle claims rather than the payment of premiums to external insurers.
- Provision of funding for specific projects or issues raised at the Corporate Risk & Resilience Forum.
- Funding from departmental budgets.
- Transfer of risk to a third-party (e.g. by use of the Private Finance Initiative or Public Private Partnerships).

The Director of Finance and the Council’s Principal Insurance Officer will provide advice where there are any financial implications affecting existing or additional insurance cover.

The Risk Management Toolkit, available on the Council’s intranet, will assist with the various stages of the risk management process.

Further Information

Any comments or feedback in respect of this document or our risk management process are always welcome and can be addressed to:

<p>Colin Ferguson Head of Audit & Assurance Finance Department 4th Floor Old Town Hall</p> <p>Email: colin.ferguson@blackburn.gov.uk Telephone: 01254 585326</p>	<p>Andrew Tordoff Principal Internal Auditor Risk/ Governance & IT Finance Department 4th Floor Old Town Hall</p> <p>Email: andrew.tordoff@blackburn.gov.uk Telephone: 01254 58 5526</p>
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Detailed Risk Management Objectives

1. *Embed risk management into the culture of the Council so that it is an integral part of the Council's management systems and processes.*

This will be achieved by:

- Integrating risk management into the Council's business planning and project management processes to monitor the risk to the achievement of objectives, delivery of services or projects, determine which risks have the most significant impact and prioritise resources accordingly.
- Risk management being integral to the decisions made by the Council, its Executive Board, Executive Members and Chief Officers. (Risk management guidance for decision makers and report writers is included at appendices 4 and 5 of the Risk Management Toolkit.)
- Providing specialist advice to the Executive and Corporate Leadership Team on policies, procedures and implications of strategic and operational risk decisions so that the Council can demonstrate control of risk and can protect and manage risks to employees and members of the public, Council reputation and financial values.
- Incorporating the risk management process into the way the Council works with its partners.

How this will be demonstrated/Measures of success:

- The Risk Management Strategy and Framework will be communicational across the Council. Ensuring that risks to the achievement of all business priorities and projects are identified and recorded within business/project plans and associated risk registers.
- The risk management training programme will relevant staff are aware of their roles and responsibilities relating to risk management.
- Key issues and risks associated with all key Council decisions must be clearly identified and recorded on the corporate decision making forms. (See appendices 4 and 5 of the Risk Management Toolkit for further guidance)
- The Director of Finance and Strategic Head of Service (Legal & Governance) being consulted on all policy decisions.
- The corporate Partnership Governance Checklist and Protocols ensure a successful approach to the joint management of risks for significant partnerships.

2. *Maintain systems and processes to manage risk and contribute to good corporate governance through accurate, relevant and timely reporting on risk management.*

This will be achieved by:

- Maintaining guidance to explain to Members, employees and partners the process for managing and reporting risk within the Council.
- Maintaining a hierarchy of risk registers, which are regularly reviewed and monitored.
- Maintaining and testing corporate and departmental business continuity plans.
- The strategic risks and associated control measures being monitored, reported and reviewed by the Audit & Governance Committee (those charged with Corporate Governance).
- Sharing departmental risk registers with relevant Executive Members and the Audit & Governance Committee.

How this will be demonstrated/Measures of success:

- Regular reviewing and communication of the Risk Management Toolkit.
- Quarterly review of the strategic risk by the Corporate Leadership Team and departmental risk registers by Strategic Directors and Directors. Risk registers reviewed at each Partnership and Project Board meeting.
- Progress on the management of risk, particularly strategic risks reported quarterly to the Council's Corporate Leadership Team and Audit & Governance Committee.
- Regular review and challenge of strategic risks by the Audit & Governance Committee.
- Use of the risk management support available from the Council's insurance brokers and insurance provider to provide advice and support on the risk management arrangements in place within the Council, including independent assurance on specific risk areas.

3. *Maintaining clear roles and responsibilities regarding risk management, including business continuity management.*

This will be achieved by:

- Clearly identifying responsibility for overseeing risk management in the Council.
- Clearly identifying officer roles, responsibilities and reporting lines for managing risk, including business continuity management.
- Establishing a risk management structure to act in an advisory and guiding capacity that is accessible to all employees.
- Aligning leadership and monitoring of strategic risks to the responsibility for achieving objectives; assessing threat and opportunity risks;
- Developing and implementing controls/warning mechanisms and reviewing/reporting on progress.

How this will be demonstrated/Measures of success:

- The Council's Constitution outlines the Audit & Governance Committee's oversight of risk management.
- Reviewing and updating the roles and responsibilities section of the Risk Management Strategy & Framework.
- Maintain up to date terms of reference for groups that support the risk management process e.g. Road Risk Management Group, Events, Health & Safety Action Group, Events Safety Advisory Group etc.
- Designating Directors as risk owners for relevant strategic risks and for maintaining risk registers affecting their operational responsibilities including key projects/partnerships.

4. *Develop and disseminate best practice in the management of risk.*

This will be achieved by:

- Independent assurance is provided to the Council on the effectiveness of the risk management framework.
- Risk management is a key contributor to corporate governance with Directors responsible for encouraging good risk management practice and having systems for identifying, monitoring and managing strategic and departmental risks.

- Ensuring that internal audit coverage is driven by a deep understanding of the risks, challenges and opportunities facing the Council.
- Improved co-ordination of risk management activity throughout the Council, reducing duplication and enhancing consistency between departments in managing overlapping risks.

How this will be demonstrated/Measures of success

- Regular review of the Risk Management Framework and supporting processes and procedure to ensure that these reflect current best practice.
- The Audit & Governance Committee approves an annual risk management report providing an independent opinion on the effectiveness of the Council risk management arrangements.
- Directors annually declare that they have effective risk management systems in place, which are summarised in the Council's Annual Governance Statement.
- Audit & Assurance delivers a risk based internal audit programme.
- Audit & Assurance providing support to departments, reviewing the consistency of risk registers and undertaking independent reviews of the risk management process.

5. Equip Members and officers with adequate skills and expertise to manage risk effectively as appropriate to their role.

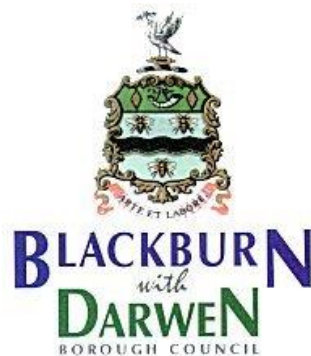
This will be achieved by:

- Delivery of general and specialist risk training for Members and officers.
- Providing advice, guidance, suitable information and training on risk management.
- Providing opportunities for shared learning on risk management across the Council and with other authorities, partners and stakeholders are taken where appropriate.

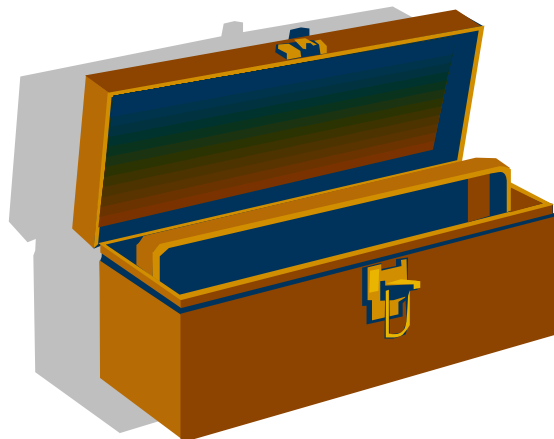
How this will be demonstrated/Measures of success

- Utilisation of the risk management support/fund on tailored training for Executive Members, Audit & Governance Committee and Extended Leadership Team.
- eLearning training package for staff
- Provision of up to date guidance in the form of Risk Management Toolkit.
- Risk management updates are shared at appropriate internal and external forums.

Blackburn with Darwen Borough Council



Risk Management Toolkit (Version 11)



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Introduction

The purpose of this toolkit is to provide a simple, effective process to identify and manage risks as part of the overall risk management and decision making processes.

The completion of risk registers forms part of good risk management arrangements, to provide a clear record of the identification and assessment of potential risks, and evidence to show that, where appropriate, action has or is being taken to remove or reduce the impact of the risk identified, if it materialises, in line with the Council Risk Management Policy Statement.

This toolkit is designed to give guidance on the risk management cycle, to assist in defining the type of risk, the scoring process and the completion of the risk register template, along with the process for escalating risks.

The Council currently records its risks using Excel workbook templates.

Risk appetite

It is impossible to have a single defined risk appetite for the Council as it provides a wide range of services and is involved in the delivery of a diverse range of activities. The Risk Management Policy Statement acknowledges that risk cannot be eliminated and may sometimes need to be embraced as part of an innovative approach to problem solving. The risk appetite should be considered for each risk scenario and a target rating identified, which is realistic and achievable, while also being tolerable for the risk that remains.

The Policy sets out the Council's approach to and general principles regarding its risk appetite, which should be applied to risk scenarios and includes definitions of risk appetite levels for key strategic risk categories. Risk appetite levels and descriptors are set out in Appendix 1.

Risk management cycle

The diagram below illustrates the continuous risk management cycle. It starts with establishing the context and identifying the risks, prioritising them, and implementing actions to mitigate the top risks.



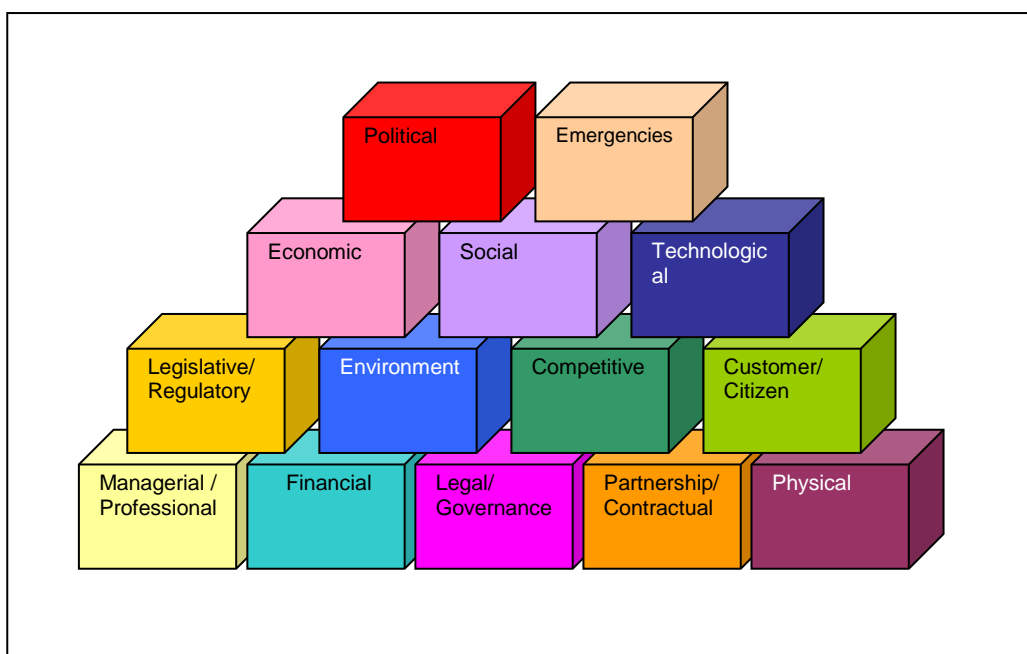
The approach adopted by the Council is a structured, systematic methodology that identifies, evaluates, prioritises and manages risk at a corporate, strategic departmental and operational level. Key aspects of the process are explained below.

Stage 1 – Establish the context and engage ‘hearts and minds’

- To ensure that the Council’s Risk Management Policy Statement becomes a living reality it is essential to begin its implementation by securing buy-in for the process before it starts, from the political leadership and Chief Officer level down.
- This has been done through a series of awareness sessions engaging the Council’s Members and senior officers on the benefits of risk management to the organisation, to services and to individuals.

Stage 2 – Risk identification

- When identifying risks the following categories of possible risk areas should be considered, along with any other risk relevant to the area concerned. They should act as a prompt for officers involved in the process to consider any risks which may apply. They ensure that a holistic approach to risk identification is taken and that the risk process does not just concentrate on operational, financial or legal risks. Examples of risks from each category can be found in Appendix 2.



Risks will be assessed at two distinct levels:

- **Strategic** – those risks that may prevent the Council from achieving its Corporate Plan priorities and strategic objectives.
- **Departmental** - those risks that may prevent the individual Departments from meeting their business plan objectives or from achieving their contribution to the corporate ambitions and priorities.

Current risks in the revenue and capital budget strategies will be assessed separately and used to determine, amongst other things, the minimum level of the revenue balances.

Monitoring of financial and performance information will also be directly influenced by risk management techniques.

Stage 3 - Assessment/Analysis

The information gathered from the processes above will be assessed and analysed and risk scenarios developed for the key concerns.

A consistent approach will be taken to assessing risks, examining for each risk identified a scenario involving a background, risk (problem) and consequence. Risk scenarios also illustrate the possible consequences of the risk if it occurs so that its full impact can be assessed.

An example risk scenario is provided below:

Background	Risk (problem)	Consequence
The Council has waste management responsibilities and is required to meet “challenging” government recycling targets.	If the waste targets are not met within the prescribed time limit the Council will be incur significant financial penalties from the Regulators and suffer adverse publicity.	<ul style="list-style-type: none">• Financial penalties.• Budgets vired from other services.• Other services have to be reduced or council tax has to be increased.• Inspection / audit criticism.• Adverse media reporting.• Council seen as failing.• Friction between members and officers.• Officer resources diverted into “fire fighting” activities.

Risk Phrasing

Once a risk has been identified it is important to describe it accurately. This can be difficult in terms of making sure others will understand it, particularly where it falls under a specific area of responsibility/expertise.

Risks can often be confused with causes (the reasons for the risk) and the consequences (the results once the risks have occurred) resulting in the risk not being clearly described. The following guidance should provide assistance when attempting to accurately describe a risk and simplify the process of aligning treatment solutions.

Typical risk phrasing used could be:

Due to ... }
Loss of ... }
Failure of ... }
Failure to ... } could lead to..., or, results in...
Lack of ... }
Partnership with ... }
Development of ... }

E.g. Due to the Council’s waste management responsibilities and the requirement to meet challenging government recycling targets there is a risk that the targets will not be met within the prescribed time limit, which may result in financial penalties, adverse media reporting or council tax having to be increased.

Risk/Threat Assessment

Each risk will be assessed at two levels, the inherent (or gross) risk and residual risk, considering the likelihood of the risk materialising and the impact it would have if the risk scenario occurred. A gross and residual risk score will be assessed for each scenario identified, calculated as follows:

Total risk score = Likelihood score x Impact score

Likelihood and impact will each be ranked on a scale of 1 to 5, considering the various elements set out in the tables below.

The two scores will be recorded in the risk register.

Gross/Inherent Risk

This is an assessment of the likelihood and impact of the risk scenario occurring as if no controls were in place regarding the activity.

Residual/Current Risk

To offset the inherent risk identified the Council applies controls to reduce it. Residual risk is the perception of the current situation. Likelihood and impact are re-scored based an evaluation of the adequacy and effectiveness the existing mitigating controls or measures that are identified as in place and operating today. Before they can be considered these controls **must already exist and be operating** to control or mitigate the risk identified. They **must not be planned or in progress**.

The difference between the inherent and residual scores represents the effect of the controls in place in managing the risk identified and demonstrates their value to the Council. It acts as evidence when considering if all the controls identified are required. This process may identify scenarios where risks are over controlled, controls that can be removed and resources can be freed up.

Finally, a **Target Score** will now be calculated and recorded for each risk.

This is the level of risk that is aimed for when taking into account the risk actions that have been identified. This should be realistic. It is difficult to be able to reduce both the likelihood and impact scores. If this score is the same as the residual risk score no further action is required and the risk can be accepted.

If the risk is not at an acceptable level further actions should be identified to reduce the risk to the target score.

If the residual risk score is considered too high actions are required to change the way we manage the likelihood or impact of the risk. There are five options:

- Treat – introduce additional suitable and proportionate controls or actions to reduce the likelihood or impact of the risk to an acceptable level, or establish a contingency to be enacted if the risk materialises;
- Tolerate – take an informed decision to accept the consequence and likelihood of the risk accepting the existing level of risk identified, subject to regular monitoring arrangements by management. Actions may not be able to be implemented due to disproportionate cost compared to the benefit obtained, or it is out of the Council's control;
- Terminate – an informed decision to not become involved in a risk situation, stop the activity that gives rise to the risk or carry out the activity in a different way to ensure that controls can be implemented; or
- Transfer – Pass the risk to a third party who shares or bears the impact if the risk materialises, through contracts, insurance or other means.

Stage 4 – Prioritisation / Risk rating matrix

A matrix will be used to plot the assessed scores and once completed this risk profile will clearly identify the priority of each risk scenario.

The higher the value of risk the higher the priority for action becomes. Risk values can be grouped to determine whether action is required and what level of priority, as shown below.

		IMPACT				
		Marginal/ Negligible 1	Minor 2	Moderate/ Significant 3	Major 4	Catastrophic 5
LIKELIHOOD	Almost Certain 5	5	10	15	20	25
	Likely 4	4	8	12	16	20
	Possible 3	3	6	9	12	15
	Unlikely 2	2	4	6	8	10
	Very Unlikely 1	1	2	3	4	5

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Each risk scenario is then given a total score that is calculated as:

Total risk score = Likelihood score x Impact score

Threats

Value of Risk	Level of Priority
1 - 6	Low – Treatment is not essential as risk can be retained
8 - 12	Medium – Treatment should be applied as soon as reasonably practical
15 - 25	High – Treatment should be applied immediately

Each opportunity scenario score is calculated as:

Total opportunity score = Likelihood score x Opportunity score

Opportunities

Value of Risk	Level of Priority
1 - 6	Low – Exploiting the opportunity is not essential as the benefits would be negligible
8 - 12	Medium – Opportunity should be exploited as soon as reasonably practicable
15 - 25	High – Opportunity should be exploited immediately

Impact descriptors

Examples of risk assessment descriptors for each level are set out in appendix 3.

Descriptor	Marginal/Negligible 1	Minor 2	Moderate/Significant 3	Major 4	Catastrophic 5
Objectives / Projects	Insignificant cost increase / schedule slippage. Barely noticeable reduction in scope or quality.	Schedule slippage. Minor reduction in quality / scope.	Schedule slippage. Reduction in scope or quality.	Schedule slippage. Failure to meet secondary objectives.	Schedule slippage. Does not meet primary objectives.
Service / Business Interruption / Organisational Impact	Interruption in a service that does not impact on the delivery of patient care or the ability to continue to provide service. Little or no disruption to activity. Loss / interruption > 1 hour.	Significant inconvenience or cost in maintaining activity. Loss / interruption > 8 hours.	Suspension of operational activity for limited period. Loss / interruption > 1 day.	Suspension of operational activity for sustained period. Loss / interruption > 1 week.	Permanent loss of core service or facility. Interruption to all Trust Services
HR / Organisational Development	Short term low staffing level temporarily reduces service quality (< 1 day).	Ongoing low staffing level reduces service quality.	Late delivery of key objective / service due to lack of staff. Minor error due to ineffective training. Ongoing unsafe staffing level.	Uncertain delivery of key objective / service due to lack of staff. Serious error due to ineffective training.	Non delivery of key objective / service due to lack of staff. Loss of key staff. Critical error due to insufficient training.
Staffing and Competence					
Financial	Small loss <£10K	£10K-£25K Or loss of > 0.1% of budget over £25m	£25K-£100K Or loss of >0.25% of budget over £25m	£100K-£500K Or loss of 0.5% of budget over £25m	>£500K Or loss of > 2% of budget over £25m
Inspection / Audit	Small number of recommendations that focus on minor improvement issues. Minor non-compliance with standards.	Minor recommendations made which can be addressed by low level of management action. Non-compliance with standards.	Reduced rating. Challenging recommendations but can be addressed with appropriate action plan. Non-compliance with core standards.	Enforcement Action. Low rating. Critical report. Major non-compliance with core standards.	Prosecution. Zero Rating. Severely critical report.
Adverse Publicity / Reputation	Awareness limited to individuals within the Organisation. Rumours	Local Media – short term. Minor effect on staff morale. Coverage limited to elements within the organisation (e.g. trade unions) and / or some external stakeholders.	Coverage throughout. Organisation and/ or some public coverage. Local Media – long term. Significant effect on staff morale.	Extensive local coverage and wide spread NHS coverage. National Media < 3 days	National media coverage and scrutiny. National Media > 3 days. MP Concern (Questions in House)
Complaints / Claims	Locally resolved complaint.	Justified complaint peripheral to clinical care.	Below excess claim. Justified complaint involving lack of appropriate care. Excessive waiting times,	Claim above excess level. Multiple justified complaints. Cancelling an operating list.	Multiple claims or single major claim.

			significantly delayed discharge.		
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Impact descriptors continued					
Descriptor	Marginal/Negligible 1	Minor 2	Moderate/Significant 3	Major 4	Catastrophic 5
Injury (Psychological)	Typically verbal abuse and minor physical contact. Illness not requiring first aid or medical treatment	More serious verbal abuse or physical. Illness requiring medical treatment. Occupational health counselling required (no time off work).	Significant physical injury or stress related to illness. Illness resulting in more than 3 days off work	Debilitating ill health resulting from a very serious incident. Post traumatic stress disorder.	Permanent incapacity, result of a very serious incident
Injury (Physical)	Little or no harm. Minor injury not requiring first aid or no apparent injury.	Minor injury or illness to one person or irritation or discomfort to a number of people, first aid treatment needed.	Serious injury to one person or minor injuries to a number of people.	HSE defined serious injury or serious injuries to more than one person. Major injuries, or long term incapacity / disability (loss of limb).	Death / Multiple Deaths or major permanent incapacity.
Client Care Experience / Outcome	Unsatisfactory client experience not directly related to patient care. Injury or illness not requiring intervention	Unsatisfactory client experience – readily resolvable. Minor injury or ill health, first aid or self treatment. No incapacity	Mismanagement of client care, short term effects (less than a week). Significant injury or ill health medical intervention necessary. Some temporary incapacity.	Serious mismanagement of client care, long term effects (more than a week). Major injuries or long term incapacity or disability.	Totally unsatisfactory client outcome or experience. Death.

Likelihood descriptors

Descriptor	Very Unlikely 1	Unlikely 2	Possible 3	Likely 4	5 Almost Certain
Frequency	Do not believe it will happen in the short/medium term.	Do not expect it to happen in the near future but it is possible	May recur occasionally	Will probably recur, but it is not a persistent issue.	Happens frequently in the organisation. Circumstances frequently encountered.
Probability	<20% in the next 12 months	20%-40% in the next 12 months	40%-60% in the next 12 months	60%-80% in the next 12 months	>80%
	Will only occur in exceptional circumstances	Only likely to happen every three or more years. Has occurred in the past. Could occur at some time in some circumstances.	Occurs approximately once every 1-2 years in the organisation.	Occurs approximately annually.	Almost certain to occur in the next weeks or months.

Opportunities descriptors

Descriptor	Negligible/Marginal 1	Minor 2	Considerable 3	Substantial 4	Extensive 5
Service	Very little improvement in the delivery of normal services	Improved ability to deliver normal services	Improved ability to deliver important services	Improved delivery of important services	Improved delivery of critical services
Financial	Income / Savings <£5k	Income / Savings >£5k	Income / Savings >10K	Income / Savings >£100k	Income / Savings >£250k

For each scenario identified a risk score will be calculated at two distinct levels, and in the order shown below:

Current risk - the likelihood and impact of the risks identified will need to be considered as if no controls exist.

Residual risk – likelihood and impact are re-scored based on an evaluation of the effectiveness of the existing controls or the measures that are put in place.

Stage 5 – Risk management

This aspect of the risk management cycle involves:

- Page 42
- Deciding what level of risk is tolerable by determining the risk appetite and the acceptable risk score;
 - Assessing whether to accept or treat the risk;
 - Documenting the rationale behind the chosen appetite/approach;
 - Implementing the decision;
 - Assigning ownership to manage the risk; and
 - Completing an action plan.

The potential for treating the risks identified will be addressed through the risk register. Risk registers will:

- describe the risk;
- set out the potential consequences;
- link risks to corporate priorities;
- show the risk appetite and target risk score; and
- describe current and proposed mitigation actions/controls.

These plans will not be seen as a separate initiative but will be incorporated into the corporate and service planning framework.

Priority and action

GREEN - Low risk (1-6) are unlikely to affect critically the business achieving its objectives. These risks are less significant, but may cause upset and inconvenience in the short term. These risks should be monitored to ensure that they are being appropriately managed. These risks can be resolved by the manager in the area where the risk has been identified and is unlikely to result in injury or financial loss. These risks are both uncommon and lower in their impact. They should be managed using normal processes

ORANGE – Medium Risk (8-12) High risks cannot be overlooked. They are likely to damage operational processes. They may have a high or low likelihood of occurrence, but their potential consequences are sufficiently serious to warrant appropriate consideration after those risks classed as 'high' and the risk monitored on a regular frequency. These risks need to be advised to the appropriate Head of Service and Director as a matter of importance.

RED – High Risk (15-25) this level of risk is very high. (These are potentially catastrophic threats to the business's objectives and, for whatever reasons existing controls have not sufficiently reduced such threats to tolerable levels.)

These are classed as primary or critical risks requiring immediate attention. They may have a high or low likelihood of occurrence, but their potential consequences are such that they must be treated as a high priority. This may mean that strategies should be developed to reduce or eliminate the risks, but also that the risk is monitored on a regular frequency. Consideration should be given to planning being specific to the risk rather than generic. It is most unlikely that such high scores will be acceptable. This needs to be immediately advised to the relevant Head of Service and Director for immediate action.

Risk appetite levels and descriptors

In assessing the level of risk for each area the Council will consider the following the appetite descriptions.

Appetite Level	Description
1. Averse	Avoidance of risk and uncertainty is a key organisation objective. Prepared to accept only the very lowest levels of risk, with the preference being for ultra-safe delivery options, while recognising that these will have little or no potential for reward/return.
2. Minimal	Preference for ultra-safe options that are low risk and only have potential for limited reward. Willing to accept some low risks, while maintaining an overall preference for safe delivery options despite the probability of these having mostly restricted potential for reward/return.
3. Cautious	Tending always towards exposure to only modest levels of risk in order to achieve acceptable, but possibly unambitious outcomes.
4. Open	Prepared to consider all delivery options and select those with the highest probability of productive outcomes, also providing an acceptable level of reward and value for money, even when there are elevated levels of associated risk.
5. Eager	Eager to be innovative and seek original/creative/pioneering delivery options and to accept the associated substantial risk levels in order to secure successful outcomes and potentially higher business reward/return.

The Council's risk capacity and appetite will also take account of the following considerations in respect of each area or activity:

- Reputation – can the Council withstand pressures as they arise as a result of the activity;
- Financial – is there sufficient financial contingency for the activity;
- Political – what political tolerance is there for any adverse risk events materialising;
- Infrastructure – is there sufficient infrastructure to manage risk;
- People – is there sufficient trained and skilled individuals; and
- Knowledge - is sufficient knowledge available to the Council.

The acceptance of risk is subject to ensuring that all potential opportunities, benefits and risks are fully understood and that appropriate measures to mitigate risk are identified and in place before decisions are made. The Council recognises that the appetite for risk will vary according to the activity undertaken and therefore different appetites and tolerances to risk will apply.

Categories of risk

Risk	Description	Examples
Strategy	Arising from identifying and pursuing a strategy, which is poorly defined, is based on flawed or inaccurate data or fails to support the delivery of commitments, plans or objectives due to a changing macro-environment.	Strategies relating to political, economic growth, social, public health, technological, environment or legislative change.
Political	Associated with the failure to deliver either local or central government policy or meet the local administration's manifesto commitment.	New political arrangements, Political personalities, Political make-up.
Governance	Risks arising from unclear plans, priorities, authorities and accountabilities, and/or ineffective or disproportionate oversight of decision-making and/or performance.	Lack of transparency in decision making. Corruption. Unclear/Poorly defined responsibilities.
Reputational	Risks arising from adverse events, including ethical violations, a lack of sustainability, systemic or repeated failures or poor quality or a lack of innovation, leading to damages to reputation and or destruction of trust and relations	Breaches/accidents/injury due to unsafe practices. Data breaches. Large scale fraud/bribery Consistent failure of services.
Economic	Affecting the ability of the council to meet its financial commitments. These include internal budgetary pressures, the failure to purchase adequate insurance cover, external macro level economic changes or consequences proposed investment decisions.	Cost of living, changes in interest rates, inflation, poverty indicators
People	Risks arising from ineffective leadership and engagement, suboptimal culture, inappropriate behaviours, the unavailability of sufficient capacity and capability, industrial action and/or non-compliance with relevant employment legislation/HR policies resulting in negative impact on performance	Performance issues Staff turnover Staff absence Workplace safety Training/competency Succession planning
Social	Relating to the effects of changes in demographic, residential or socio-economic trends on the council's ability to meet its objectives.	Staff levels from available workforce, ageing population, health statistics
Technological	Associated with the capacity of the Council to deal with the pace/scale of technological change, or its ability to use technology to address changing demands. They may also include the consequences of internal technological failures on the council's ability to deliver its objectives.	E-Gov. agenda, IT infrastructure, Staff/client needs, security standards. Inadequate or deficient system/process development and performance or inadequate resilience.
Commercial	Risks arising from weaknesses in the management of commercial partnerships, supply chains and contractual requirements	Poor contract performance, inefficiency, poor value for money, fraud, and /or failure to meet business requirements/objectives
Legislative	Associated with current or potential changes in national or European law.	Human rights, Appliance or non-appliance of TUPE regulations

Environmental	Relating to the environmental consequences of progressing the Council's strategic objectives.	Land use, recycling, pollution
Professional/ Managerial	Associated with the particular nature of each profession, internal protocols and managerial abilities.	Staff restructure, key personalities, internal capacity
Financial	Associated with financial planning and control.	Budget overspends, level of council tax, level of reserves
Legal	Related to possible breaches of legislation or contracts.	Client brings legal challenge
Physical	Related to fire, security, accident prevention and health and safety.	Offices in poor state of repair, use of equipment
Partnership/ Contractual	Associated with failure of contractors and partnership arrangements with other organisations to deliver services or products to the agreed cost and specification.	Contractor fails to deliver, partnership agencies do not have common goals
Competitive	Affecting the competitiveness of the service (in terms of cost or quality) and/or its ability to deliver best value.	Fail to win quality accreditation, position in league tables
Customer/ Citizen	Associated with failure to meet the current and changing needs and expectations of customers and citizens.	Managing expectations, extent of consultation
Emergencies	An emergency is an event or situation that threatens serious damage to human welfare in a place in the UK, an event or situation which threatens serious damage to the environment of a place in the UK, or war, or terrorism, which threatens serious damage to the security of the UK.	Heat wave, flooding, pandemic flu, bird flu

Risk assessment descriptors**Measures of likelihood**

Score	Description	Example Descriptors
5	Almost certain	<ul style="list-style-type: none"> Happens frequently in the organisation. Circumstances frequently encountered. Almost certain (80% probability) to occur in the next weeks or months.
4	Likely	<ul style="list-style-type: none"> Occurs approximately annually. There is a strong possibility (60%-80%) that it will happen in the next 1-2 years.
3	Possible	<ul style="list-style-type: none"> Occurs approximately once every 1-2 years in the organisation. There is a possibility (40%-60%) that it will occur in the next 12 months.
2	Unlikely	<ul style="list-style-type: none"> Do not expect it to happen in the near future (20%-40% probability in the next 12 months). Only likely to happen every three or more years. Has occurred in the past. Could occur at some time in some circumstances.
1	Very unlikely	<ul style="list-style-type: none"> Do not believe it will happen in the short/medium term (less than 20% probability in the next 12 months). Has never occurred in the past. May only occur in exceptional circumstances.

Measures of impact

Score	Description	Example Descriptors
5	Catastrophic	<ul style="list-style-type: none"> Inability to deliver a number of corporate objectives. Substantial effect on one or more objectives making it extremely difficult and/or costly to achieve. Medium to long term impact on performance. Affecting all stakeholders with a long term impact. Loss of service delivery for more than seven days Adverse and persistent national media coverage. Adverse central government response. Officers/and/or members forced to resign. Death of one or more people. Significant local environmental damage. Permanent loss of property Major disruption to a number of critical services. Huge financial loss >£500K.
4	Major	<ul style="list-style-type: none"> Inability to deliver one or more of the corporate objectives. Affects more than one group of stakeholders with widespread medium term impact. Considerable effect on an objective making it difficult /costly to achieve. Loss of service for more than 48 hours but less than seven days.

		<ul style="list-style-type: none"> • Adverse publicity in professional/local press, affecting perception/standing in professional/local government community. • Major injury to one or more people. • Severe property damage. • Major financial loss £100K – £500K.
3	Moderate	<ul style="list-style-type: none"> • Severe problems in delivering corporate objectives. • Affects more than one group of stakeholders with widespread but short term impact. • Evident and material effect on an objective, making it fully achievable only with some moderate difficulty/cost. • Adverse local publicity/local public opinion. • Statutory prosecution of a non serious nature. • Some disruption to internal business; may result in customer service disruption. • Some property damage. • Minor damage to the local environment • Significant disruption to important services • Moderate financial loss £25K – £100K
2	Minor	<ul style="list-style-type: none"> • Minor problems in delivering corporate objectives. Small but noticeable effect on the achievement of a small part of an objective. • Contained within the Department/Directorate, with position recoverable in the financial period. • Affects only one group of stakeholders with minimum impact. • Complaint from individual or small group of people of arguable merit. • Minor disruption to delivery of service • Some financial loss £10k – £25K
1	Marginal/Negligible	<ul style="list-style-type: none"> • Minor problems in delivering corporate objectives. Peripheral effect on the objective impacting in a very minor way on a small part of it. • Very little disruption to normal service • Very little financial loss <£10K

Opportunity Measures

Score	Description	Example Descriptors
5	Extensive/Exceptional	<ul style="list-style-type: none"> • Major improvement to delivery of key/critical services, generally across a broad range. • Income / Savings >£250K. • Positive national press. • National award or recognition/elevated status by national government.
4	Substantial/Significant	<ul style="list-style-type: none"> • Major or significant improvement to delivery of a critical service area. • Income / Savings >£100K. • Recognition of successful initiative • Sustained positive recognition and support from local press.

3	Considerable	<ul style="list-style-type: none"> • Improved ability to deliver important services • Income / Savings >£10K
2	Minor	<ul style="list-style-type: none"> • Improved ability to deliver normal services • Income / Savings >£5K
1	Negligible/Marginal	<ul style="list-style-type: none"> • Very little improvement in the delivery of normal services • Income / Savings <£5K

Decision making – Risk management guidance

One of the objectives of the Council's Risk Management Strategy and Framework is to *embed risk management into the culture of the Council so that it is an integral part of the Council's systems and processes.*

Risk management is not a new phenomenon. Managers have always been assessing and mitigating against risk as part of their decision making and service delivery processes in the day to day management of services. Risk management is also integral to the decisions made by the Council, its Executive Board, Executive Members and Chief Officers, however the decision making process has not always formally documented and recorded the consideration of risk. The Council's Risk Management Strategy and Framework requires that risks associated with all key Council decisions are clearly identified and recorded.

Why is Risk Management Important in Decision Making?

Effective corporate governance requires that risk management is integral to policy, planning and operational management. Applying risk management processes will help strategic decision makers make informed decisions about policy and service delivery options.

Decision makers need to be satisfied that the risks and opportunities related to proposals are fully considered and recorded. It is important that all those involved in the decision making process have consciously analysed the proposal. In addition to the decision maker obtaining a level of assurance that decisions and the implementation of recommendations have been subject to a robust risk assessment, it is an important principle of good governance that they can be subjected to effective scrutiny.

Decision makers can be held accountable for decisions internally by Overview & Scrutiny Reviews and externally by Government Inspections, the Local Government Ombudsman and members of the public & press (via Freedom of Information requests). They will want to see that the decision and the information used to make the decision are documented and accessible, i.e. the decision is 'informed' and 'transparent'.

Whilst all decisions require scrutiny, there are certain key decisions which benefit from a more rigorous approach. Examples include:

- The acquisition of property/physical assets;
- Introduction of new services or change in the means of delivery;
- Resource allocation;
- Outsourcing of services;
- Business process re-engineering;
- Entering into joint ventures or collaboration of any kind (including shared services); and
- Projects and partnerships.

How is Risk Management Incorporated into the Council's Decision Making Process?

The principles of risk management relating to decision making are the same as for any other risk management process. The Council's Risk Management Strategy and Risk Management Toolkit should be referred to for guidance on the risk assessment process.

The Executive Board and Member report templates include a 'Key issues and risk section'. The report author should record 'significant' risks in this section which have been identified after carrying out a risk assessment. The risk assessment must record the risks related to taking the proposed recommendation(s) (including the risks of implementation), and the risks of not taking the recommended action.

If a detailed risk assessment has been carried out and documented using the Council's risk register template it may be attached to the report to support the recommended action or referenced as a background document. Any opportunities flowing from the proposal should also be noted in this section of the report template.

What is the purpose of the risk assessment?

The risk assessment:

- Demonstrates that all significant risks related to the decision have been considered;
- Provides evidence that the decision maker has been provided with sufficient information about risks in terms of probability and impact; and
- Explains how the risks will be managed.

What will the risk assessment record?

The risk assessment should record:

- Risks that may arise if the decision is **not** taken.
- Risks that may arise if the decision **is** taken.
- Actions that will be taken to manage each risk documented if the decision is taken.

The Executive Member responsible for the decision should review the risk assessment and ask the following questions:

- How has the nature and extent of the risks that the Council is willing to take in achieving its objectives associated with the decision been determined and used to inform decision-making? Is this risk appetite tailored and proportionate to the Council?
- Does the required decision balance the potential benefits of the decision with the costs, efforts and any disadvantages of different options?
- What is the source of and how effective is the risk information and insights provided in supporting the decision making in terms of quality of information, its source, its format and its frequency?
- Are there other risks related to the decision that have not been identified and assessed?
- Do they agree with the assessment of the risks that have been documented?
- Do they agree that the recorded actions to manage the documented risks are adequate?

Do all risks in relation to a proposal have to be recorded?

The risk assessment should be proportionate to the decision being made. The report author and others involved in the risk assessment process should consider the impact of the risk when deciding whether it should be recorded or not. If the impact is negligible or low then it is reasonable that the risk is not recorded.

Report writing guidance and risk management self challenge questions

To be effective, identifying risks must be based on your objectives and should clearly define how the risk would impact on the achievement of those objectives. Without clear objectives and a continuing reference back to them you will not be able to determine which risks are relevant and will have the most significant impact.

Where possible, it is recommended that you cross reference the risk to the strategic and Departmental Business Plan Objective to which it relates.

Report writers should note that there is a difference between a risk and an issue. A risk is concerned with a threat or a possible future event whereas an issue is something that is happening now. This is likely to be a risk that has materialised.

Focus on the right risk areas, a good report will enable the decision maker to focus on the risk areas that require their particular attention and which are based on good quality information. A report that focuses risk discussion on low likelihood but high impact risks that could take the Council by surprise would for instance make better use of decision makers' time than a comprehensive report that encompasses detailed information on all strategic and operational risks. Risks should be summarised appropriately but backed up by more detail where required.

Ask yourself the following:

1. What are you aiming to achieve? Does your report content have clear objectives and criteria?
2. What may prevent you from achieving the aim and objective you are writing the report about?
3. Is the report concise? Does it focus on areas that require attention? Does it express a clear message?
4. Does the report show how you compared and addressed options to reach a recommendation?
5. Have you identified what risks or threats may prevent you from achieving each of the differing courses of action?
6. How are limitations and influences associated with the information and evidence used with risk assessments highlighted?
7. How are risks transparently assessed within the appraisal of options for policies, programmes and projects or other significant commitments?
8. Have you considered all types of risks (e.g. emerging, reputation, operational and environmental) and the context of these?
9. Have you shown consideration of both short-term and long-term risks to the decision?
10. Have you fully expressed the risks? (I.e. included the cause of the risk and the consequences?)
11. Have you taken account of previous successes and failures within the Council or by other bodies in relation to this area?
12. Does the report clearly distinguish between evidence, facts and opinions?
13. Have you clearly identified the risks and implications of the options you are recommending on the achievement of the corporate or Departmental objectives (as per the Business Plan)?

14. How are the views of external stakeholders gathered and included within risk considerations?
15. Have you considered how identified risks may impact on other areas of the Council's business or its stakeholders?
16. Have you evaluated the associated costs of the risks and the mitigation actions relating to these?
17. Have you identified what opportunities may be available that you can take advantage of that would offset the risks identified?
18. What is the risk appetite for this area? Are you clear about what level of risk you are recommending the Council takes in relation to the risk/s?
19. Is the recommendation you are making too risk-averse, does it prevent the Council from actively engaging with risks (i.e. taking risks where the outcome or opportunity that would result may be worth it)?
20. Consider the report from the perspective of the decision maker – have you clearly articulated the risks associated with the activity and told them what they need to know to take an informed decision?
21. Does the report allow the Council to be open and transparent and able to justify its decisions?

EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	Finance - Audit & Assurance	Date the activity will be implemented	01/02/2022
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Brief description of activity	Corporate Risk Management Policy Statement and Risk Management Strategy & Framework
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Budget changes - Change to existing Council policy/strategy	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
FOR =	TOTAL	AGAINST = 6

Will you now be completing an EIA?

Yes

No

The EIA toolkit can be found [here](#)

Assessment Lead Signature	Colin Ferguson
Checked by departmental E&D Lead	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date	07/01/2022

Executive Member Decision



REPORT OF:	Executive Member for Finance and Governance and Executive Member for Environment
LEAD OFFICERS:	Director of Place, Strategic Director of Resources (SIRO)
DATE:	Friday, 22 October 2021

PORTFOLIO(S) AFFECTED:	Environment, Finance and Governance
WARD/S AFFECTED:	(All Wards);

SUBJECT:

EMD Review of Enforcement and Prosecution Policy

1. EXECUTIVE SUMMARY

The Council's Enforcement and Prosecution policy was approved and adopted at the Executive Board meeting on 11 October 2018. There was a requirement to review the policy and this has been completed, the review has identified some minor amendments to the corporate Enforcement and Prosecution policy applicable to all regulatory functions of the Council.

2. RECOMMENDATIONS

That the Executive Member

- Adopts the amended Enforcement and Prosecution policy
- Approves a further review of the policy in 3 years unless a review becomes necessary because of changes in legislation. .

3. BACKGROUND

At the Executive Board on Thursday 11 October 2018 the Council's Enforcement and Prosecution Policy was noted, approved and adopted.

There was a requirement to review the policy and this has now been carried out with a number of minor amendments to reflect current law and practice. For instance, references to government departments have been updated after name changes and all the links to the Codes of Practice and legislation in the policy have also been refreshed. There has also been an opportunity to improve on the wording of some sections for clarity and to make reference to matters such as revenues and benefits enforcement, use of contracted enforcement officers, animal welfare and landlord banning orders which had been omitted previously.

The review period has been extended to 3 years save where a review is necessary because of a change in legislation.

Annex 1 is the new version.

Annex 2 is the previous report at the stage when the policy was first adopted by the Executive Board which sets out the underlying need for the policy.

This is a general overarching policy which does not override any existing specific enforcement-type policies such as the Council Tax Collection Recovery and Enforcement Policy.

4. KEY ISSUES & RISKS

The general need for the policy to ensure compliance with Government Codes of Practice and the law has already been established at adoption stage in 2019. The policy contains a requirement that it is reviewed formally and this ensures that it reflects current law and practice.

5. POLICY IMPLICATIONS

This policy contributes in the main to the following corporate priorities:

- Supporting young people and raising aspirations
- Safeguarding and supporting the most vulnerable people
- Safe and clean environment

6. FINANCIAL IMPLICATIONS

The policy is relevant to all current enforcement activity but does not require any additional resources to operate.

7. LEGAL IMPLICATIONS

This policy continues to demonstrate the Council's commitment to the Regulators Code and the Code of Crown Prosecutors.

8. RESOURCE IMPLICATIONS

Continuing to adhere to the policy will not require any additional resources.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

10. CONSULTATIONS

This policy has been drafted in consultation with the following departments – licensing, community safety, planning, education, audit, housing standards, public protection and Council Tax.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published.

CONTACT OFFICER:	Shelagh Lyth, shelagh.lyth@blackburn.gov.uk
DATE:	22 October 2021
BACKGROUND PAPERS:	Previous drafts and e-mailed consultations



ENFORCEMENT AND PROSECUTION POLICY

1. Introduction

- a. Council has a variety of enforcement functions, the purpose of which are to promote public safety and to protect public amenities, the environment and consumers.
- b. The Council's intention is to promote a balanced, thriving and safe local community by carrying out enforcement in a practical and proportionate manner, whilst having regard to the impact the enforcement is likely to have upon local businesses and people.

- c. The Council also has a statutory duty to have regard to the need to safeguard the welfare of children¹ and vulnerable adults² and to prevent and detect crime³ in exercising any of its other statutory functions.

- d. This policy sets out the general standards that will be applied in relation to enforcement of legislation by the Council in its role as regulator and enforcer. It must be noted that this policy cannot describe every piece of legislation or every national or local code or standard. The Council will use its best endeavours to apply all the general principles in this policy wherever possible whilst recognising that each case must be dealt with lawfully on its own merits.

- e. For the avoidance of doubt, whenever Council officers, enforcement officers are referred to this will include third party investigators duly contracted to undertake work on behalf of the Council.

2. The Council's Statutory Functions

The following list contains the categories of statutory enforcement functions the Council's enforcement services are empowered to carry out:

- Environmental protection
- Envirocrime
- Revenues and Benefits – Council Tax/Business Rates recovery and benefit overpayment/fraud
- Housing Standards
- Planning, Building Control and Highways (including parking)
- Licensing
- Trading standards and consumer protection

¹ Section 11 Children Act 2004

² Care Act 2014

³ Section 17 Crime and Disorder Act 1998

- Community Safety- Anti-Social Behaviour
- Food law
- Animal Health, welfare and feed law
- Health and safety at work
- Education – Unauthorised Absence from School / Breach of School Attendance Order

2. Principles of Enforcement

The Council hereby commits to the principles of proportionality, consistency, transparency, targeted/prioritised enforcement action and accountability, all of which are set out in the statutory Regulators' Code (the Code)⁴. It is a statutory duty for all regulators to have regard to the Code when considering exercising a regulatory function.⁵ All these principles have been taken into account in this policy but in the event of any perceived inconsistencies the Regulators Code will prevail (save that it shall not override the status of the Code for Crown Prosecutors in relation to prosecutions.)

3. Proportionality

- a) Any enforcement action taken by the Council will be proportionate to the seriousness of the harm or likely harm which the enforcement is designed to prevent. An assessment of any harm being suffered by the victims or complainants and the effects of that harm upon them should be done where relevant in order to decide what action would be most appropriate.
- b) In accordance with the Regulators' Code, the Council's enforcement services should also assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means, taking

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulatorscode.pdf

⁵ Section 22 of the Legislative and Regulatory Reform Act 2006 [Legislative and Regulatory Reform Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2006/52/section/22)

into account, for example, business size and capacity. They should also ensure that their officers and any third party investigators duly contracted to undertake work on behalf of the Council have the necessary knowledge and skills to understand those they regulate so that they are better able to choose proportionate and effective approaches⁶.

- c) The role of the Council's enforcement services is to obtain and maintain compliance, the preferred method being by means of engagement, inspection, advice and education. Formal enforcement actions are viewed as a means of helping to secure appropriate standards and changes in behaviour, not an end in themselves.
- d) The Council will take into account all the circumstances of the particular case but will also take into account the attitude of the business or person who is being investigated. Full co-operation with any investigation is likely to be a mitigating feature which will be taken into account when the Council is making a decision as to the type of enforcement action to take. Deliberately ignoring warnings will be an aggravating feature.
- e) A prosecution will normally only be taken in cases where the harm or risk of harm is most serious or in cases where the more informal types of enforcement, including repeated written and/or oral warnings, have been unsuccessful in changing the illegal behaviour of the offender, or where there are unpaid fixed penalty notices⁷ (e.g. littering or non-school attendance or persistent anti-social behaviour).

4. Consistency

- a) Arrangements are in place to promote consistency in the interpretation and enforcement of legislation through national or local standards. Such standards are set by liaising with other local authorities and taking advice

⁶ See para 1.1 and 1.3 of the Regulators' Code

⁷ or other unpaid civil penalties where the statute prescribes prosecution as the enforcement method

provided by professional organisations such as National Trading Standards, the Association of Chief Trading Standards Officers, the Chartered Institute of Environmental Health, the Institute of Licensing, Chartered Association of Building Engineers (CABE), Royal Institute of Chartered Surveyors (RICS), Royal Town Planning Institute (RTPI), National Association of Planning Enforcement (NAPE), the Department of Work and Pensions Ofsted and other central government departments e.g. Department of Health and Social Care, Department of Education, Department for Levelling Up, Housing and Communities, Department for Environment, Food and Rural Affairs, Health and Safety Executive, Office for Product Safety and Standards (ie Department for Business, Energy and Industrial Strategy) and the Department of Transport or their current equivalents.

- b) Council procedures require that senior managers maintain oversight of formal enforcement activity and that enforcement officers receive appropriate training and supervision. This also means that any third party investigators duly contracted to undertake work on behalf of the Council should be properly vetted prior to instructions and supervised appropriately.
- c) Consistency is not a simple matter of uniformity. As well as comparing similar cases, and looking at national or local standards, officers will also need to exercise their professional judgement and discretion according to the circumstances of each individual case and be able to justify their actions accordingly.
- d) Any decision regarding enforcement action must be impartial, reasonable, take into account all relevant considerations and discount irrelevant considerations.

5. Transparency and clarity

- a) Transparency is important in maintaining public confidence in the Council's ability to regulate. Transparency and clarity means helping those the Council regulates to understand what is expected of them and what they should expect from the Council (including the use of plain English standards). It also means making clear why the Council intends to, or has taken enforcement action.
- b) The Council's enforcement services must, in their dealings with individuals and businesses who may be in breach of regulations, ensure that they make it clear which requirements are legal requirements which must be complied with and which are best practice or policy guidance.
- c) The Council will from time to time publish specific enforcement policies for specific legislative functions. In the event of inconsistency those specific policies prevail – see also 11 e).
- d) Some pieces of legislation also advocate transparency. For example, the Council's enforcement services are also required under section 51 Protection of Freedoms Act 2012 to have regard to the Code of Practice on Powers of Entry⁸ which requires the reasonable exercise of those powers as well as ensuring that the enforcing officers keep the occupier properly informed in undertaking their rights of entry into premises under the various pieces of legislation.
- e) The Council will ensure that where they request an individual or a business to take remedial action, they will explain why the action is necessary and by when it must be carried out. The Council will ensure that

8

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383079/Code_of_Practice_Powers_of_Entry_web_.pdf dated December 2014

a written explanation is given of the relevant legislation and give details of any rights of appeal against formal enforcement action and the appeal limitation period.

- f) The Council will accommodate all requests for information unless it is exempt under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or other statutory restriction e.g. as exists in the Enterprise Act 2002⁹.

6. Targeting/Prioritising/Assessing risks/threats

- a) Targeting means making sure that the Council's enforcement services are directed primarily towards those whose activities actually or potentially give rise to the most serious breaches of legislation or tackling issues which cause the most concern to stakeholders and/or 'hot spots' in relation to the matters set out in paragraph 1.2 above.
- b) Systems of prioritising enforcement include responding to complaints from individuals in the community about regulated activities, the inspection of premises/areas according to the threats assessed and the gathering and acting on intelligence about potential illegal activities. Intelligence-led threat assessments may be made from time to time by each of the Council's enforcement services. Resources for enforcement should be allocated in such a way as will be most effective in addressing these priorities.

7. Accountability

The Council's enforcement services are accountable to the public for their actions while remaining independent in the decisions taken. Any complaints about the Council's services should be addressed to:--

⁹ Section 237 onwards

feedback@blackburn.gov.uk or in writing to: Corporate Complaints

Manager,
Blackburn with Darwen Borough Council,
Town Hall,
King William Street, BB1
7DY.

8. Human Rights and Equality

- a) In carrying out its enforcement activities the Council's enforcement services will have regard to the rights and freedoms guaranteed to individuals under the Human Rights Act 1998 (HRA). Particular attention will be given to the human rights aspect in cases where either the perpetrator or the victim of the breach is considered to be vulnerable.

- b) The Council considers the right of an individual to the right to respect for their private and family life¹⁰ to be significant when exercising enforcement. The Council will ensure that where it is proposed to interfere with that right it is done lawfully, only when needed and proportionately. The right to a fair trial¹¹ and the interests of justice should be taken into account particularly where the Council is reviewing a licence to operate a business. The right to the peaceful enjoyment of one's possessions¹² should also be taken into consideration particularly when considering the rights of entry to property and seizure.

- c) The Council will ensure that it complies with the Equality Act 2010 and whilst undertaking enforcement will not adopt practices which discriminate directly or indirectly as defined by that Act.

¹⁰ Article 8 of the ECHR

¹¹ Article 6 of the ECHR

¹² Article 1 of the first Protocol of the ECHR

9. Authorisation

Any officer carrying out enforcement work should be authorised to do so by the Council through the current schemes and of delegation in accordance with delegated powers contained in the current Council Constitution. All enforcement officers should carry their identity cards and a list of legislation they are authorised to enforce.

10. Purpose and Methods of Enforcement

- a) The purpose of enforcement is to ensure that preventative or remedial action is taken to secure compliance with the legal requirements. Enforcement action may be taken as a result of an incident, a service request, intelligence or an inspection.
- b) The Council's enforcement services will deal with service requests in a manner which reflects the principles stated above, by prioritising resources accordingly and will investigate offences with a view to prosecution where appropriate.
- c) As a general rule and where there may be options, the level of enforcement contemplated will be the minimum at which a satisfactory solution is thought to be achievable. The possible deterrent effect a prosecution may have on compliance in the Council's area will also be considered.
- d) It is anticipated that most of the Council's enforcement service's dealings with those they regulate will be through informal avenues providing education, advice and assistance. However, where informal methods have been unsuccessful, or a serious or repeated breach of legislation has, or is likely to, occur, formal enforcement action will be taken to ensure compliance with the law.

- e) In appropriate cases, offenders may be dealt with by agreeing to a programme or scheme which provides restorative justice where there is a suitable scheme available. The Council would only consider this if they are satisfied that there is sufficient evidence of a breach, it is proportionate and the offender has consented to give their full co-operation.¹³
- f) Decisions on the appropriate enforcement actions and when and how to carry out investigations, will be made by authorised officers of the relevant enforcement service and the decision to commence a criminal prosecution must be made by the Council solicitor in accordance with the current Council constitution. Save that it is notable that under the Health & Safety at Work (etc) Act 1974 only authorised Health & Safety Officers can by law commence prosecutions.
- g) Other enforcement officers have delegated powers to issue summonses, civil penalty notices or fixed penalty notices, as well as other enforcement powers e.g. to apply for warrants and serve statutory notices. However, in relation to civil penalty notices for housing standards offences, statutory guidance makes it clear that it must first be determined that there is a realistic prospect of conviction in accordance with the Code for Crown Prosecutors¹⁴ prior to the civil penalty being issued.
- h) Council members set priorities and guide decision making in relation to determining the types of enforcement action that might

¹³ For example, a training course aimed at educating offenders in under age sales cases may be offered as an alternative to formal action;

¹⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf Issued April 2018

be taken in relation to offences, and will approve general policies. Decision-making in respect of individual breaches is however delegated under the Council constitution to the requisite officers thereby assuring that no conflicts of interest can arise.

- i) Council enforcement services will be proactive in adopting a partnership approach to tackling issues within the Council's area and to that extent will seek, wherever feasible, to establish these as formal written agreements with both internal and external partners particularly where data sharing is concerned.

11. Enforcement Action Available

- a) There are a variety of enforcement actions available to the Council. It is not practicable to list every type of action that the Council is empowered to take under the many pieces of legislation applicable to each area of enforcement. Generally, the following can be considered examples:
 - i. general powers of investigation, making enquiries, use of powers of entry, powers to search premises and seize items used in the commission of offences;
 - ii. provision of advice to particular individuals or businesses or other means of education such as leafleting or other wider publicity,
 - iii. warnings to individuals or businesses, written or oral;
 - iv. informal or formal mediation between complainants and those individuals or businesses that are complained about resulting in behaviour

agreements or undertakings (statutory under the EA 2002 or non-statutory);

- v. service of statutory notices such as abatement notices, community protection notices, stop notices, breach of condition notices, enforcement notices, request for information notices, improvement notices, prohibition notices;
- vi. Issue of fixed and civil penalty notices requiring payment of a fine; some whose non-payment results in prosecution, some whose non-payment results in a civil debt recovery process;
- vii. issuing of simple and informal cautions, (which may include restorative justice),
- viii. applications to the magistrates' court, civil court/tribunal for:
 - confiscation of assets/financial benefit obtained as a result of commission of a crime,
 - forfeiture of items used in the commission of offences,
 - closure of business premises or
 - Enforcement orders under the Enterprise Act 2002,
 - injunctions under Town and Country Planning Act 1990
 - anti-social behaviour injunctions;
 - Landlord Banning Order or other orders under the Housing and Planning Act 2016
 - Liability Orders for recovery of Council Tax and Business Rates
- ix. Prosecutions which result in a punishment by the criminal court such as a statutory fine or imprisonment – and which may also include ancillary applications similar to those set out in viii) above;

- x. The application to courts for judgements for recovery of civil debt and the use of the various court enforcement methods that are available after a court judgement has been obtained. The various legal enforcement methods available are many and include: warrants to seize goods, distress (use of enforcement agents' bailiffs) attachment of earnings/benefits orders, charging orders on property, forfeiture of property, bankruptcy/insolvency proceedings or committal proceedings. Such actions may follow in such matters as council tax or business rates arrears, rent arrears. This applies also in cases where there is a debt owed to the Council after works done by the Council in default. Examples are: planning or housing cases where the owner fails to undertake required works in accordance with a statutory notice served.

- xi. Refusal of an application for a licence or permit for which the Council is the issuing body or the review, suspension or revocation of such a licence or permit e.g. taxi licenses, premises licenses (which cover licensable activities such as sale of alcohol and food) and HMO (Houses in Multiple Occupation) or other selective housing licences

- b) Note that this list is not exhaustive and the Council will rely on the powers set out in each particular statute and consider all the facts of a particular case before making a reasoned decision as to how to proceed. This decision will take into account available threat assessments made from time to time by each enforcement team.

- c) The Council officers and any third party investigators duly contracted to undertake work on behalf of the Council will also adhere where appropriate to guidance which is either statutory or advisory. Statutory guidance is issued in accordance with the various specific statutes e.g. the Home office

Guidance on the Anti- Social Behaviour Crime and Policing Act 2014¹⁵. However, there will also be advisory policies and guidance issued by the various statutory, central government or professional bodies for each function. One example is the detailed guidance produced by the Health and Safety Executive in relation to enforcement decision making (the Enforcement Management Model, or EMM)¹⁶ and officers must have regard to this document when determining what action to take in relation to health and safety breaches¹⁷.

- d) In addition to the matters referred to in 11 c) above there may also be other enforcement policies adopted by the Council for each specific enforcement function which are published from time to time on the Council's website. This policy shall be general. In the event of an inconsistency the specific enforcement policy will prevail.

12. Conduct of Investigations.

Investigations carried out by the Council's enforcement officers and any third party investigators duly contracted to undertake work on behalf of the Council will be carried out in accordance with this policy and relevant Council policies. Investigations will also will be carried out in accordance with relevant legislation and associated statutory codes of practice where they are applicable. Some specific pieces of legislation such as food safety legislation also provide procedures for specific evidence gathering by means of multiple sample

¹⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf

¹⁶ <http://www.hse.gov.uk/enforce/enforcement-management-model.htm>

¹⁷ Other examples include policies developed by such organisations as the Association of Greater Manchester Authorities (AGMA) which develop policies for licensing and other matters, and more particularly it has recently developed a policy on civil penalties as an alternative to prosecution for relevant housing offences which authorities can adopt.

collection and recording. The most notable pieces of legislation which apply to all investigations of criminal offences across the different Council functions are:

- The Police and Criminal Evidence Act 1984 and PACE Codes of Practice A to H, which cover procedures for such matters as search warrants and interviews under caution;
- Criminal Procedure and Investigations Act 1996 and the associated Code of Practice, which covers procedures for identifying, recording, retaining and disclosing unused material;
- Regulation of Investigatory Powers Act 2000 and Human Rights Act 2000 which govern the use of investigation techniques which have an impact upon the privacy of the individual.

13. Code For Crown Prosecutors

Factors Determining Prosecution

- a) Where statutory powers to prosecute exist, the decision to refer for prosecution is not taken lightly. The Code for Crown Prosecutors is always applied.¹⁸
- b) One of the main principles underpinning the criminal justice system in a democratic society is the independence of the prosecutor. Prosecutors have a public duty and should remain independent from all other persons or agencies that are not part of the Council Solicitor's prosecution decision-making process. The Council Solicitor and solicitors employed by the Council as prosecuting solicitors are also independent from the investigating officers. Prosecuting solicitors, like the Crown Prosecution Service, are officers of the court and must remain free to carry out their

¹⁸ [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

professional and public duties objectively without other undue influences (e.g. political) either internal or external to the Council.

- c) Before a decision to refer for prosecution is taken the case must be assessed formally in accordance with the evidential test and the public interest test. Once it has been referred to the Council solicitor it will then be independently assessed in accordance with the Code. A case which does not pass the evidential stage must not proceed no matter how serious or sensitive it may seem.
- d) Once prosecution has been determined as the appropriate course of action, consideration will automatically be given to supplementary sanctions available through the Courts (such as applications for forfeiture, compensation, Criminal Behaviour Order on a case by case basis.
- e) If a person who is accused or convicted of an offence can be shown to have a criminal lifestyle and to have benefitted financially from his crimes then the Council enforcement officers will consider appointing an Accredited Financial Investigator to undertake an investigation under the Proceeds of Crime Act 2002 and its accompanying Code of Practice¹⁹. This investigation may run parallel with the criminal investigation and which could result in a formal application to the Crown Court for an order to confiscate an amount of money commensurate with the amount by which the offender has found to have benefitted.

14 Evidential Test

- a) Before commencing a prosecution the Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. This is an objective test based on the assessment of the evidence and any likely defence that could be put forward.

¹⁹ <https://www.gov.uk/government/publications/proceeds-of-crime-act-codes-of-practice>

- b) Of particular importance is the following extract from the Code: “The finding that there is a realistic prospect of conviction is based on the prosecutor's objective assessment of the evidence, including the impact of any defence, and any other information that the suspect has put forward or on which he or she might rely. It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged. This is a different test from the one that the criminal courts themselves must apply. A court may only convict if it is sure that the defendant is guilty.” The Council Solicitor has the requisite delegated authority to make this decision.
- c) When deciding if there is sufficient evidence to prosecute the matters below will need to be considered:
- i. Can the evidence be used in Court or is it likely that the evidence may be found by the court to be inadmissible? (E.g. poor identification evidence, breaches of PACE or reliance on hearsay)
 - ii. Is the evidence reliable? Is it credible? Officer should check all the facts and follow all reasonable lines of inquiry including those that lead away from the guilt of the suspect. Officers should also check other known associates of the suspect and/or other suspects and consider whether they should be interviewed if the evidence shows they could be involved.
 - iii. Is the evidence credible? Investigating officers should test the facts stated by their witnesses so that they are sure that there is no reason to doubt their evidence.
 - iv. Is there any material i.e. records, documentary or otherwise that may affect the assessment of the sufficiency of evidence, including examined and unexamined material held by the investigating

officer, and material that may be obtained through further reasonable lines of inquiry?

- v. Is the defendant likely to be able to establish a reasonably credible defence? For example “due diligence” under Section 21 of the Food Safety Act 1990 or “best practical means” under Environmental Protection Act 1990.

15. Public Interest Test

- a) It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.
- b) When deciding the public interest, prosecutors should consider each of the factors set out below in paragraphs a) to g) so as to identify and determine the relevant public interest factors tending for and against prosecution. These factors, together with any public interest factors should enable prosecutors to form an overall assessment of the public interest. They are not exhaustive, not all may be relevant in any given case, and their weight will vary depending on the facts. Whatever the decision, it should be capable of justification at court upon challenge.
- c) Those factors are listed below but in summary only and **they should not be relied upon by officers applying the Code to their cases. There is no substitute for reading the Code itself and applying its contents to each case:**

- i. **Seriousness** – consider the levels of culpability of the suspect and harm to the victims/complainants as a whole.
- ii. **Culpability level of the suspect** – consider level of involvement, premeditation/planning, how they have benefitted, previous convictions, offending whilst on bail, breach of undertakings or court orders and continuing, persistent, escalating offending. Also consider the age and maturity of the suspect and whether they are vulnerable e.g. mental health sufferer. Consider whether they have been coerced.
- iii. **Circumstances of the harm caused to the victim** – this is stated to be highly relevant as the greater the victim's vulnerability the more likely a prosecution is needed. Victim impact statements should be obtained. Was there any discrimination²⁰ against the victim?
- iv. **Under 18 at the time of the offence** – will the process have a disproportionate impact on him taking into account the seriousness of the offence? The child's welfare will need to be considered and the UN 1989 Convention on the Rights of the Child. The starting point is that the younger the child the less likely a prosecution is required.
- v. **Impact on the community** – the greater the impact of the offending on the community, the more likely a prosecution is required.
- vi. **Proportionality** – is a prosecution proportionate to the likely outcome/penalty? Consider the cost of bringing the prosecution to both the prosecuting authority and the criminal justice system. This is a relevant factor when making an overall assessment of the public interest but it should not be a sole reason for not proceeding. Effective case management can also be a factor so that for instance where there are multiple suspects a decision can be made to proceed against the main suspects to avoid excessively long, complex proceedings. Another example is where the offence is likely to attract a low fine (e.g. Band A²¹ in the sentencing guidelines where the individual is on benefits.)

²⁰ As respects the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity

²¹ Fine Band A – Starting point is 50% of relevant weekly income with a range of between 25 – 75%

Consideration should be given to the alternative monetary penalties e.g. fixed penalty notices to assist in reducing the burden on the wider criminal justice system.

- vii. **Do sources of information require protecting?** In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

16. Review

This policy will be reviewed every three years or as and when changes in law and guidance require whichever is earliest.

Reviewed version date:

VERSION	Date	Drafted/Reviewed by	Adopted by the Council on date	Date of Executive Board decision
8 Final	22/06/2018	Shelagh Lyth Prosecution solicitor and Gary Johnston Head of Public Protection	11 October 2018	11 October 2018
9 Final	23/08/2021 minor amendments – refreshed links and updated in line with current law and guidance including additions relating to revenues and benefits enforcement and use of contracted enforcement officers.	“		



EXECUTIVE BOARD DECISION

REPORT OF: Executive Member for Resources

LEAD OFFICERS: Council Solicitor

DATE: 11 October 2018

PORTFOLIO/S AFFECTED: ALL

WARD/S AFFECTED: All

KEY DECISION: YES NO

SUBJECT: ENFORCEMENT AND PROSECUTION POLICY

1. EXECUTIVE SUMMARY

To present to Members of the Council a corporate prosecution policy applicable to all regulatory functions of the Council.

2. RECOMMENDATIONS

That the Executive Board consider the policy and resolve whether to adopt it.

3. BACKGROUND

The Council has a variety of enforcement functions, the purpose of which are to promote public safety and to protect public amenities, the environment and consumers. The Council's intention is to promote a balanced, thriving and safe local community by carrying out enforcement in a practical and proportionate manner, whilst having regard to the impact the enforcement is likely to have upon local businesses and people.

The public nature of enforcement especially when it comes to bringing prosecutions to court means that it is necessary to act in a way that complies with the principles of proportionality, consistency, transparency, targeted/prioritised enforcement action and accountability.

Therefore it was considered best practice to develop a public-facing policy which as well as providing information to members of the public, can also be used as guidance for officers undertaking the enforcement. A copy of the draft Enforcement and Prosecution Policy is attached at Appendix 1.

4. KEY ISSUES & RISKS

Council officers have a duty to have regard to two Codes of Practice, for enforcement officers it is the Regulators Code and for Prosecution lawyers it is the Code for Crown Prosecutors. The principles in both Codes are routinely applied by enforcement officers but the Council needs to demonstrate that the principles have been formally adopted.

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The existence of such a policy will assist in the consistency of decision-making throughout the enforcement process. It will reassure everyone

- that Council officers, in particular those involved in enforcement , routinely apply the principles of proportionality, consistency, transparency, targeted/prioritised enforcement action and accountability, all of which are set out in the statutory Regulators' Code.
- that the Council is applying the public interest test and the evidential test at the stage before a prosecution is commenced which are set out in the Code for Crown prosecutors

There are a number of different functions of a regulatory nature, within the Council including :

- Environmental protection
- Envirocrime
- Housing Standards
- Planning, Building Control and Highways (including parking)
- Licensing
- Trading standards and consumer protection
- Community Safety- Anti-Social Behaviour
- Food law
- Health and safety at work
- Education – Unauthorised Absence from School / Breach of School Attendance Order

Each function has its own legislation and statutory instruments which apply. Some of these already have their own enforcement policies which are specific to each area, whether statutory or otherwise. This corporate policy serves to promote consistency across the Council whilst preserving the specific duties and requirements for each individual function.

5. POLICY IMPLICATIONS

This policy contributes to the corporate priorities (numbers 3 4 and 5 :

Improving health and well-being;
Improving outcomes for our young people – education and skills
Safeguarding the most vulnerable people

6. FINANCIAL IMPLICATIONS

The policy will be accommodated within existing resources

7. LEGAL IMPLICATIONS

This policy is to be welcomed as a way of demonstrating the Council's commitment to the Regulators Code and the Code of Crown Prosecutors.

8. RESOURCE IMPLICATIONS

The policy will be accommodated within existing resources.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

This policy has been drafted in consultation with the following departments – licensing, community safety, planning, education, parking enforcement, audit, housing standards, corporate complaints, public protection and Council Tax Recovery.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	1
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CONTACT OFFICER:	Shelagh Lyth, Solicitor
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DATE:	6 th September 2018
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BACKGROUND PAPER:	Code of Crown Prosecutors, Regulators Code.
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EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	Finance and Governance	Date the activity will be implemented	22/10/2021
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Brief description of activity	Review of Enforcement and Prosecution Policy
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input checked="" type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
FOR = 1	TOTAL	AGAINST = 5

Will you now be completing an EIA?

Yes

No

The EIA toolkit can be found [here](#)

Assessment Lead Signature	Shelagh Lyth
Checked by departmental E&D Lead	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Date	08/10/2021